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STATE DOCUMENTS
JUL 25 1975

MONTANA CONSTITUTIONAL CONVENTION

INSTRUCTIONAL IDEA AND RESOURCE FILE

A PROJECT INITIATED AND COORDINATED BY DOLORES COLBURG, SUPERINTENDENT OF PUBLIC INSTRUCTION

MONTANA STATE LIBRARY
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1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

DIRECT ALL CORRESPONDENCE

CONCERNING THIS FILE TO:

Dolores Colburg
Superintendent of Public Instruction
State Capitol
Helena, Montana 59601

TOPIC: Introduction to the File
AUTHOR: Dolores Colburg, Superintendent of Public Instruction

The material in this Idea and Resource File is designed to give Montana educators background and ideas from which to launch a study of the Constitutional Convention and its related activities.

My office initiated this dissemination project on the premise that an understanding of the state's most fundamental document, the constitution, is vital at the local level. 1972 is a prominent period in Montana history, and the state's youth now have a unique opportunity to examine both the philosophy and the workings of our state government. During the coming weeks, public attention will be focused on

TABLE OF CONTENTS

33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

TOPIC: Introduction to the File
AUTHOR: Dolores Colburg, Superintendent of Public Instruction

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My office initiated this dissemination project on the premise that an understanding of the state's most fundamental document, the constitution, is vital at the local level. 1972 is a prominent period in Montana history, and the state's youth now have a unique opportunity to examine both the philosophy and the workings of our state government. During the coming weeks, public attention will be focused on the alternatives and decisions from which the future will be formed.

I know that many teachers already have begun a study of the constitution in their classes. For these teachers, as well as for those who have not yet approached the subject, the enclosed materials should prove valuable in providing historical and supplementary information. The File is neither prescriptive nor is it limited to any specific class level. In short, it is not a curriculum guide. The File serves merely as a vehicle to disseminate information that may be adapted to each school's curriculum and to exchange information about each school's techniques in studying the constitution. In that spirit, I hope the contents will be beneficial.

Each insert in the File will be numbered in sequence (inside the circle at the top of the page). A blank table of contents is provided on the folder so that an up-to-date index of materials may be maintained. As subsequent inserts are mailed periodically, the File may begin to bulge; so much the better, if we are serving your needs.

One copy of the File will be available at no charge on request for each school in the state--elementary, junior high and high school. Costs dictate limited distribution; however, additional copies will be available to schools on a first-come, first-served basis.

I am pleased to sponsor this project. With the continued cooperation of Convention delegates, selected organizations and enthusiastic school staffs, I am confident that the File can help bring Constitution Hall closer to the classroom.

2

TOPIC: "Suggestion Box" for File
SOURCE: Dolores Colburg, Superintendent of Public Instruction

The attached form is provided for your use at any time during publication of File materials. Staff members in the State Superintendent's office welcome your ideas and suggestions to make the File as effective and useful as possible.

If you think of materials which might be helpful for instructional purposes, send in the "Suggestion Box" and an attempt will be made to acquire and distribute the materials to all persons on the File mailing list.

If you are engaged in a classroom project that might be of interest to others receiving the File, please send in the "Suggestion Box" describing your project. It is hoped that many Montana teachers will contribute articles for distribution in the File so that successful techniques can be disseminated on a statewide basis while the Convention is in progress. Of particular interest are projects involving activities such as role playing, debate and mock convention proceedings. Ideas on visual inquiry materials and interdisciplinary approaches, as well, would be appreciated.

Your participation is vital to the success of the File, so do not hesitate to send in your ideas and suggestions at any time.

Montana Constitutional Convention Instructional Idea and Resource File

SUGGESTION BOX

I have an idea that might be incorporated in the File. The following description is submitted for your consideration:_____

_____

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_____

_____

Submitted by:_____
(name)

_____
(school or organization)

☐ If you decide to develop this idea, I would be pleased to write a draft or otherwise assist.

☐ Call me at_____ if you want to talk about my idea.

Return this "Suggestion Box" to Mrs. Dolores Colburg, Superintendent of Public Instruction, State Capitol, Helena 59601

3

TOPIC: Tours to Constitutional Convention and Historical Society
SOURCES: Constitutional Convention Public Information Committee and Montana Historical Society

Efforts are being made to organize tours for Montana school children who visit the state capital during the Constitutional Convention. State officials stress the need for adequate coordination and supervision of students who come for class visitations, and attached is information to aid planning and scheduling of tours in advance.

3 ADDENDUM

The following notation was submitted by the Public Information Committee of the Constitutional Convention:

The instructions for tours provided on File #3 should be corrected as follows, due to the Convention's decision to schedule a Tuesday through Saturday work week:

"Plans are being made to schedule tours Tuesday through Saturday at 9 a.m., 10:30 a.m., 1:30 p.m., and 3 p.m."

4

TOPIC: Montana State Library Distribution of Reference Materials
SOURCE: David Hoffman, State Librarian
NOTE: Correspondence to Mr. Hoffman should be addressed to the Montana State Library, 930 East Lyndale Avenue, Helena, Montana 59601.

The attached lists show material sent by the Montana State Library to the public libraries in Montana.

Shipment of additional Constitutional Convention Commission publications to public libraries in Montana is anticipated as soon as those reports are completed and made available.

School libraries wishing to borrow this material or other information on American government and constitutional revision should request through their local public libraries. School libraries in city areas should go to their city public library, and schools in counties with library service should work through their county library service. School libraries without access to local public libraries may obtain material directly from the Montana State Library. Libraries using the Montana State Library should be warned, however, that there is a high demand for constitutional revision material at the State Library. For this reason, loans are restricted to seven days and in many cases long lists of reserves and a consequent delay may be anticipated.

MONTANA STATE LIBRARY
930 EAST LYNDALE AVENUE HELENA, MONTANA 59601

CONSTITUTIONAL CONVENTION MATERIAL DISTRIBUTED TO PUBLIC LIBRARIES

LIST #1

1. Council of State Governments. Constitutional Revision Activities, 1969-70. Lexington, Council of State Governments, 1971.

2. Hawaii. Legislative Reference Bureau. Hawaii Constitutional Convention Studies; Introduction and Article Summaries. University of Hawaii, 1968.

3. Illinois. Constitutional Research Group. Con-Con: Issues for the Illinois Constitutional Convention. Urbana, University of Illinois Press, 1970.

   Note: Now out of print. We were able to obtain only enough copies to distribute to libraries serving populations of 5,000 or more. Additional copies are in the federation headquarters libraries and at the Montana State Library.

4. Montana. Constitutional Convention Commission. Memorandum number 2, 3, 4, 7, 8, 9 and Report 1 (Montana Constitution of 1884), 1 (Constitutional Convention Enabling Act), 2, 3, 4, 5, 6 (Legislative Council Report), 6 (New State Constitutions), 7, 15, 16.

5. Montana. Constitution of the State of Montana . . . as amended. 1967.

6. Montana. Cooperative Extension Service. We, the People. . . by Lucile Speer.

7. National Municipal League. Changing Patterns of Apportionment. New York, 1965.

8. -------. The Constitutional Convention: A Manual on its Planning, Organization and Operation. New York, 1961.

9. -------. How to Study a State Constitution. New York, 1962.

10. -------. Model State Constitution. New York, 1968.

11. -------. Salient Issues of Constitutional Revision. New York, 1961.

12. -------. State Constitutions: Reapportionment. New York, 1960.

MONTANA STATE LIBRARY
930 EAST LYNDALE AVENUE HELENA, MONTANA 59601

CONSTITUTIONAL CONVENTION MATERIAL
DISTRIBUTED TO PUBLIC LIBRARIES

LIST #2

Note: Due to the expense, the following material is only being sent to federation headquarters libraries (Billings, Great Falls, Miles City, and Lincoln County (Libby) Public Libraries). Additional copies are available at the Montana State Library.

Hawaii. Legislative Reference Bureau. Hawaii Constitutional Convention Studies. 1968. (15 volumes).

-------. Article I: Bill of Rights.

-------. Article II: Suffrage and Elections.

-------. Article III: The Legislature, Volume I.

-------. Article III: The Legislature, Volume II (Apportionment Provisions).

-------. Article IV: The Executive.

-------. Article V: The Judiciary.

-------. Article VI: Taxation and Finance.

-------. Article VII: Local Government.

-------. Article VIII: Public Health and Welfare.

-------. Article IX: Education, Volume I (Public Education).

-------. Article IX: Education, Volume II (Higher Education).

-------. Article X and Article XI: Conservation and Development of Resources and Hawaiian Home Lands (1 volume).

-------. Article XII: Organization, Collective Bargaining.

-------. Article XIII, Article XIV, and Article XVI: State Boundaries, Capital, Flag; General and Miscellaneous Provisions; and Schedule (1 volume).

-------. Article XV: Revision and Amendment.

5

TOPIC: Special Newspaper Issue, "Constitutional Convention"
SOURCE: Montana Division of Lee Enterprises, Inc.

Copies of the attached special newspaper issue were contributed to the File by the Montana Division of Lee Enterprises, Inc. The publication was distributed on January 16, 1972 in the Billings Gazette, the Missoulian, the Butte Montana Standard and the Helena Independent Record. Additional copies are available for 10 cents from the newspaper offices listed above.

Newsmen in the Lee State Bureau who compiled the information and wrote the stories expressed interest in learning your response to the special issue as a public service project.

6

TOPIC: "Citizen Suggestion" Form
SOURCE: Constitutional Convention Public Information Committee

Montana's Constitutional Convention delegates are emphasizing the importance of direct citizen participation in the activities of the convention. Through the Public Information Committee, the attached copies of the "Citizen Suggestion" were made available for distribution in the File to local schools and communities.

Proposals submitted to the convention may range from a statement of an idea to actual drafts of minor provisions or entire articles.

Convention rules provide that "Citizen Suggestions" will be referred by the president to the appropriate convention committee for consideration. Additional "Citizen Suggestion" forms are available from the Montana Constitutional Convention Public Information Committee.

7

TOPIC: Possible Issues for the Constitutional Convention
SOURCE: Montana Constitutional Convention Commission

In the process of revising, altering or amending the State Constitution, delegates will be searching for desirable answers to a number of key questions. The attached list of possible issues was formulated by the staff of the Montana Constitutional Convention Commission. It is provided in the File to prompt classroom discussion about some of the major considerations currently before the substantive committees of the convention. The list may provide ideas for student debates and research assignments concerning each article of the existing Constitution, as well.

POSSIBLE ISSUES FOR THE CONSTITUTIONAL CONVENTION

BILL OF RIGHTS

1. Should the Constitution contain a provision on the right of privacy?
2. Should the Constitution contain a provision on liberty of conscience?
3. Should the Constitution contain a provision on freedom from discrimination?
4. Should protection from search and seizure be extended to wiretapping and electronic surveillance?
5. Should statements of political philosophy be retained in the Constitution?

SUFFRAGE AND ELECTIONS

1. Should the voting age be lowered to 18?
2. Should residency requirements be modified?
3. Should the economic qualifications to vote on matters concerning taxation and debt be retained?

LEGISLATURE

1. Should the 60-day biennial limit on legislative sessions be modified?
2. Should the Legislature be a unicameral or bicameral body?
3. Who should be given the responsibility for legislative apportionment?
4. Should the Constitution specify apportionment standards?

EXECUTIVE

1. What executive officers should be provided for in the Constitution? Which should be elective?
2. Should the governor and lieutenant governor be elected on a joint ticket?

3. Should administrative departments be headed by single executives or by boards?

4. Should gubernatorial appointments and removal be subject to legislative approval?

JUDICIAL

1. Should Supreme Court justices and district court judges be elected or appointed?

2. What term of office should be provided for judges?

3. Should the inferior court structures be modified into a unified judicial system with one level of trial courts?

4. What provisions should be made for removal, suspension and discipline of judges?

5. Should the judicial system be financed entirely by the state?

6. Should the Chief Justice be made chief administrator of a unified court system?

TAXATION AND FINANCE

1. Should the Constitution limit the taxes the state may impose?

2. Should the Constitution exempt tangible and intangible personal property from the property tax?

3. Should the earmarking of revenues be forbidden?

4. Should the anti-diversion amendment be retained?

5. Should state aid to private education be permitted?

6. Should the Constitution provide for a state lottery to raise revenue?

7. Should provisions for administration of property taxes, including county assessor, county board of equalization and state board of equalization, be retained in the Constitution?

8. Should the limit on state debt be extended to cover all state debt?

9. Should local debt be limited by the Constitution or by state law?

10. Should investment of public funds be regulated by the Constitution or by state law?

LOCAL GOVERNMENT

1. Should concurrent or residual home rule powers be given to all units of local government?

2. Should the Constitution allocate powers between units of local government and the state?

3. Should the Constitution permit state financial aid to units of local government.

4. Should the Constitution expressly authorize intergovernmental relations?

5. Should the Constitution grant local legislative authority to counties?

EDUCATION

1. Should the State Superintendent of Public Instruction be appointed? If so, should the superintendent be appointed by the Governor or by the Board of Education?

2. Should there be separate boards of public education and the University regents?

3. Should the formula for distribution of Interest and Income Money remain in the Constitution and remain distinct from state equalization aid formula?

4. Should the county superintendent of schools continue as a constitutional office?

MISCELLANEOUS

1. Should the anti-gambling provision be modified to permit state licensed gambling? Should games such as bingo be made constitutional?

2. Should right to qualify environment be included in the Constitution?

3. Should the article on business corporations be retained in the Constitution?

REVISION AND AMENDMENT

1. Should the three-amendment limit be retained?

2. Should the "single subject" limit be modified?

3. Should the publicity requirement remain in the Constitution?

4. Should the requirement that Governor sign amendments be retained?

5. Should the Constitution provide for initiative for amendments and calling Constitutional Convention?

6. Should the Constitution provide for periodic constitutional revision commissions?

7. Should the Constitution provide for a periodic vote on calling a constitutional convention?

8. Should present provision for electing delegates be retained?

8

TOPIC: Rules for a Mock Constitutional Convention
SOURCE: T. Alan Pattison
NOTE: Mr. Pattison is state chairman of the YMCA Youth and Government program which featured a Youth Constitutional Convention in Helena on January 5 through 8, 1972

In response to questions concerning organization of a mock constitutional convention, a sample set of rules is attached for adaptation in the classroom. The rules were formulated by officials of the YMCA Youth Constitutional Convention in conjunction with Dale Harris, executive director of the Montana Constitutional Convention Commission. The YMCA rules attached are a modified version of the Constitutional Convention Rules of the State of Illinois and are reprinted from the YMCA Youth and Government Handbook for 1972.

Suggested Order of Events for a Mock Constitutional Convention

1. Orientation Session (to Explain Convention Procedure)

2. Opening Session of Convention:
   a. Call to Order
   b. Presentation of Colors
   c. National Anthem
   d. Opening Address
   e. "Montana"
   f. Administration of Oath
   g. Election of President, Vice President, and Secretary
   h. President's Acceptance Speech
   i. Appointment of Committees

3. Committee Meetings
   a. Election of Committee Chairmen and Secretaries
   b. Consideration of Proposals by Committees until Committees have adopted Committee Proposals

4. Committee of the Whole
   Convention Debate and Adopt Committee Proposals

5. Final Adoption and Signing of Constitution in Convention

6. Ratification of Constitution

Note: The Mock Convention could be scheduled for one, two or three days. The time should be divided equally between Committee Meetings and Committee's of the Whole.

MONTANA YOUTH CONSTITUTIONAL CONVENTION

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CONVENTION RULES

Chapter I. Transaction of Business

Rule 1. Order of Business

The order of business of the Convention shall be as follows:

1. Call to order and preliminary matters.
2. Invocation.
3. Roll call.
4. Reading of Journal.
5. Reports of standing committees.
6. Reports of select committees.
7. Communications.
8. Committee of the Whole considerations.
9. Final consideration of proposals.
10. Motions and resolutions.
11. Unfinished business.

Rule 2. Roll Call

The secretary shall call the roll at the opening of each session of the Convention and the president shall announce whether a quorum is present. The president shall announce, and the secretary shall enter in the Journal, the names of members absent with leave of the Convention, and the names of members absent without such leave. If a voting machine is provided, vote by machine shall be taken whenever a roll call or a vote by ayes and nays is directed by or in accordance with these rules.

Rule 3. Petitions; Printing in Journal

No memorial, remonstrance, or petition shall be read or be printed in full in the Journal unless ordered read or printed by the Convention.

Rule 4. Motions and Resolutions

When a motion is made, it shall be stated to the Convention by the president; or, if in writing, it shall be handed to the secretary and read aloud to the Convention before being debated.

Every resolution, other than a proposal, shall be submitted in quintuplicate and shall be referred to the appropriate committee. If the rules are suspended to permit immediate consideration of a resolution, the resolution shall be read in full to the Convention before it is considered.

Rule 5. Reduced to Writing

Every motion or amendment shall be reduced to writing if the president or any 10 members request it, and shall be entered upon the Journal, together with the name of the member making it, unless the motion is withdrawn by the maker or is ruled out of order by the president.

Rule 6. Withdrawal of Motions

After a motion has been stated by the president or read by the secretary, it shall be deemed to be in the possession of the Convention, but it may be withdrawn by the member at any time before being amended or put to vote.

Rule 7. Privileged Motions

When a question is under debate, no motion shall be received except --

1. To amend the calendar and agenda.
2. To fix the time to which to adjourn.
3. To adjourn.
4. To take a recess.
5. To reconsider.
6. To call for the Orders of the Day.
7. To lay on the Table.

8. For a Call of the Convention.

9. To move the previous question.

10. To limit debate.

11. To postpone to a day certain.

12. To commit.

13. To amend.

14. To postpone indefinitely.

The motions listed in this rule shall take precedence in the order which they stand arranged. All of them shall be decided by the affirmative vote of a majority of those present and voting, except that a motion for the previous question requires the affirmative vote of 2/3 of those present and voting and a motion to postpone indefintely requires the affirmative vote prescribed in Rule 21. When a recess is taken while a question is pending, consideration of such question shall be resumed when the Convention reassembles, unless it determines otherwise. No motion to postpone to a day certain, or to commit, having been decided by the Convention, shall again be in order on the same day or at the same stage of the question. Whenever a proposal is being considered and a motion is then made, either to postpone indefinitely or to commit, amendments to the pending proposal shall first be in order before any vote is taken on any such motion.

Rule 8. Motions not Debatable

A motion to adjourn is always in order except when a motion to fix the time to which to adjourn, or a motion to amend the calendar and agenda, is pending. A motion to adjourn, a motion to lay on the table, a motion for recess pending the consideration of other business and all matters relating to questions of order, shall be decided without debate.

Rule 9. Order of Putting Questions

All questions shall be put in the order in which they are moved, except in the case of privileged motions.

Rule 10. Amendment must be Germane

No motion or proposition relating to a subject different from that under consideration shall be admitted under color of an amendment or substitute.

Rule 11. Division of Question

Any member may call for a division of the question, which shall be divided if it includes propositions which are so distinct in substance that when one is removed or deferred, a substantive proposition remains for the decision of the Convention. A motion to strike out and insert shall not be subject to division within the meaning of this rule.

Rule 12. Previous Question

The method of ordering the previous question shall be as follows: Any member may move the previous question and, unless otherwise stated, the motion shall apply to the immediately pending question only. When such motion is seconded, the presiding officer shall put the question, "Shall the main question now be put?" This shall be ordered only by the affirmative vote of 2/3 of the members present and voting. After the seconding of a motion for the previous question and prior to the ordering of the same, a Call of the Convention may be moved and ordered, but after ordering the previous question nothing shall be in order prior to the decision of the pending question or questions, except demands for the ayes and nays, points of order, appeals from the decision of the Chair, and a motion to adjourn or to take a recess, all of which shall be decided without debate. The effect of ordering the previous question is to put an end to all debate and bring the Convention to a direct vote upon the immediately pending question, and such other pending questions as were specified in the motion in their order down to and including the main question; provided, however, that when the previous question is ordered, amendments then on the secretary's desk shall be acted upon. When a motion to reconsider has been taken under the previous question and decided in the affirmative, the fact that the previous question had been ordered shall have no operation or effect with respect to the question for which reconsideration has been ordered. If the Convention refuses to order the previous question, it shall

resume consideration of the pending subject as though no motion for the previous question had been made.

Rule 13. Motion for Reconsideration

Any member who voted on the prevailing side may move for a reconsideration of any question at the same session day of the Convention or may give notice that he will make such a motion not later than the next succeeding session day. If the member who gave the notice does not make the motion at the next succeeding session day, any member may do so. The Committee on Style, Drafting and Submission may move for reconsideration on any subsequent day if one session day's notice of its intention to do so is given in writing to the secretary and entered upon the Journal. A motion to reconsider shall take precedence over all other questions, except a motion to amend the calendar and agenda, a motion to fix the time to which to adjourn, a motion to adjourn and a motion to recess. A motion to reconsider shall not be renewed on the same day.

Rule 14. Ordering Calls of the Convention

Calls of the Convention may be ordered upon motion by the affirmative vote of a majority of the members present and voting, but the total vote in favor of such Call shall not be less than 12.

Rule 15. Procedure on Call of Convention

After a Call of the Convention is ordered the doors shall be closed and the members shall not be permitted to leave the floor of the Convention without permission of the president or the Convention. The sergeant at arms shall notify all members within the bar of the Convention of the Call. The roll of the Convention shall be called and the absentees noted. The sergeant at arms may, upon motion, be dispatched after the absentees. In such case, a list of the absentees shall be furnished by the secretary to the sergeant at arms, who shall bring such absentees to the floor of the Convention with all possible speed. In case the sergeant at arms requires assistance in addition to the regularly appointed assistant sergeants at arms of the Convention, the president, upon motion, may deputize as a special assistant sergeant at arms any person properly

qualified. The Convention may proceed to business under a Call of the Convention pending the arrival of any absenttes.

Rule 16: Proposals; Introduction

Any suggestion, proposition or draft intended to become a part of any revised constitution or amendment or alteration of the existing constitution, or schedule to be attached thereto, or recommendation for no change therein, shall be called a proposal. A proposal introduced by a member shall be designated a committee proposal. A member proposal shall be endorsed by the member or members introducing it and a committee proposal shall be presented by the chairman of the committee submitting it.

Each proposal shall be introduced or submitted in quadruplicate. All proposals must be typed, double spaced on $8\frac{1}{2}$ x 11 inch paper. A margin of one inch on the left and right side and at the top and bottom shall be preserved. The lines on each page shall be numbered consecutively from top to bottom at the left margin, and the left typing margin shall be two spaces to the right of the line numbers. Pages commencing with page 2 shall be numbered at the top center of the page. At the top of the first page of each proposal there shall be placed the numerical designation of the proposal, a synopsis of the proposal, the name of the proposer and the date offered and the words: Be it proposed. The proposals shall be reproduced.

When a member proposal is introduced it shall be referred by the president to the proper standing committee, except when he refers it to the Committee on Rules to determine whether its content is on the appropriate order of business. By vote of at least one-third of the members of the Committee on Rules any proposal shall be referred to a standing committee. A proposal submitted by a standing committee shall be placed on the General Orders.

Rule 17. Order of Consideration of Proposals

The prescribed order in which proposals introduced in the Convention are to be taken up or acted upon shall be as follows:

1. Introduction, first consideration, reference to a committee by the

president, and ordered duplicated and distributed unless otherwise ordered by a majority of the members present.

2. Report of the committee and placing on the General Orders.
3. Consideration by the Committee of the Whole in order of their reference.
4. Report by the Committee of the Whole and reference to the Committee on Style, Drafting and Submission.
5. Report of the Committee on Style, Drafting and Submission.
6. Second consideration, final passage of each proposal.
7. Re-reference to the Committee on Drafting, Style and Submission for incorporation in final draft.
8. Report by the Committee on Style, Drafting and Submission of any complete revision of, or proposed amendment to, the Constitution.
9. Tentative adoption of any complete revision of, or proposed amendment to, the Constitution.
10. Third consideration and final passage of any complete revision of, or proposed amendment to, the Constitution.

Rule 18. Majority Vote on Proposals

On the final passage of every proposal, section, article and of any complete revision of or amendment to the Constitution, the vote shall be taken by ayes and nays and entered on the Journal and no proposal, section, article, or any such amendment or complete revision, shall be declared finally passed unless a majority of members have voted in favor of the passage of the same.

Rule 19. Calendar and Agenda

The president shall cause to be prepared a calendar and agenda for each session of the Convention. The calendar shall be furnished to the secretary, who shall distribute it to the members at least 6 hours before the time set for the next session of the Convention, unless the president waives the time requirement precribed in this rule as necessary to the orderly or expeditious conduct of the business of the Convention. The Convention, at any time or from time to time during a session, may adopt, reject or modify the daily calendar and

agenda presented to it.

Rule 20. Unfinished Special Orders

Any subject matter which has been made a special order for a particular day, but which is not reached on that day, shall then come up for consideration under the order of "Unfinished Business" at the next succeeding session of the Convention.

Rule 21. Limitation on Debate and Control of Dilatory Procedure

The Convention by the affirmative vote of a majority of members may limit the time of debate on any matter before the Convention and may designate a method of allocating among members the period allowed for debate, provided that any member who shall not have had an opportunity to speak on the pending matter prior to the completion of debate which has been limited in accordance with this Rule shall be entitled, upon request, notwithstanding such limit, to speak for not more than 5 minutes.

Chapter II. Members

Rule 22. Conduct in Debate

When any member is about to speak in debate or to present any matter to the Convention, he shall rise from his seat, and address himself to "Mr. President;" he shall not speak until recognized and when recognized he shall confine himself to the question under consideration and avoid personalities. A member may not use offensive language during debate.

Rule 23. Members Called to Order

The president or any member may challenge any other member who, in speaking, violates the rules of the Convention. Upon such challenge, the president may order the speaker to sit down. The president's order to sit down, or the failure of the president to order the speaker to sit down, may be appealed.

Rule 24. Contest of Elections

A question of the election, returns or qualifications of any member shall

be referred to the Committee on Rules for investigation and report. The affirmative vote of a majority of members is required for the adoption of the report on the Committee on Rules on any election contest.

Rule 25. Dissent of Members

Any 2 or more members shall have the liberty to dissent from and protest in respectful language against any action or resolution relating to the Convention which they think injurious to the public or to any individual and have the reasons for their dissent entered upon the Journal.

Rule 26. Times and Length a Member May Speak

No member shall speak longer than 10 minutes at any one time, nor more than once on the same question, except by leave of the Convention; except that the person handling a proposal shall have the right to speak no longer than 5 minutes to close debate, even if the previous question has been ordered and even if he has spoken once before on the issue. Also any member shall have 3 minutes to explain his vote on any roll call vote on proposals or amendments to proposals any time prior to the announcement of the vote on the question.

Rule 27. Absence of Member

No member shall absent himself from the sessions of the Convention unless he have leave or be sick, or his absence be unavoidable.

Rule 28. Disrespectful or Contemptuous Behavior of Members

The Convention may, by a vote of 2/3 of the members elected and serving, hold a person guilty of disrespectful or contemptuous behavior in its presence.

If any member is held guilty of disrespectful or contemptuous behavior in the presence of the Convention, he may be deprived of his committee assignments, denied speaking privileges, and denied secretarial and staff aid, or suspended or expelled. Such penalties and the duration thereof must be encompassed in the motion holding guilty.

Rule 29. Disclosure of Personal Interest

Any member who has a significant personal or private interest, economic or otherwise, in a matter before the Convention shall disclose this interest to the Convention.

Chapter III. Miscellaneous

Rule 30. Reading of Documents

When the reading of a document is called for and an objection is raised to such reading, the Convention shall determine without debate whether the document shall be read.

Rule 31. Presentation and Endorsement of Petitions

Petitions received by an officer of the Convention or by any member may be initialed by the recipient, and referred to the delegates from the district from which the petition came.

Rule 32. Putting the Question

The president shall put all questions substantially in this form: "As many as are in favor of (as the question may be) say 'aye';" and after the affirmative vote is expressed, "as many as are opposed say 'no'." If the president is in doubt as to the vote, he may order a division or roll call of the Convention.

A division of the Convention may be had upon the demand of 5 members. When a division of the Convention is ordered the president shall declare the result.

A roll call may be had upon the demand of 10 members.

On a tie vote the question shall be determined as lost.

Rule 33. Recognition during Roll Call

After a question has been stated by the president, and the call of the roll has been started, the president shall not recognize a member for any purpose except upon points of order, or for the purpose of explaining his vote on a proposal or amendment thereto, until after the announcement of the vote. The secretary shall enter upon the Journal the names of those voting "aye" and the names of those voting "no."

Rule 34. Roll Call

At the roll call to be taken at the opening of each session and upon Calls of the Convention, the names of the members shall be called alphabetically or the voting machine shall be used, if provided, and the absentees noted, after which

the names of the absentees shall be called.

Rule 35. Amendment or Suspension of Rules

These rules may be amended by the affirmative vote of a majority of members after the proposed amendment has been submitted in writing, has been considered by the Committee on Rules, and has been in the possession of the members prior to its consideration. The Committee on Rules may be discharged from further consideration of any proposed amendment upon motion passed by the affirmative vote of a majority of members. One or more rules may be suspended for a specified purpose by the affirmative vote of 2/3 of the members present or a majority of all members of the Convention, whichever constitutes the lesser number.

Rule 36. Appeals -- Form of Question

On all appeals from decisions of the Chair, the question shall be "Shall the appeal be sustained?" A favorable vote of a majority of the members present and voting shall sustain the appeal. The presiding officer may cast his vote on an appeal from his decision, and he shall have the right to explain his decision.

Rule 37. Mason's Rules of Order

In all cases not covered by these rules the controlling parliamentary authority shall be the latest edition of Mason's Rules of Order.

9

TITLE: "Constitutional Revision in the Classroom"
AUTHOR: Don Byrd
NOTE: Mr. Byrd, teacher of American and Montana History at Helena Senior High School, involved some of his students in a project to review and revise the existing Montana Constitution. For the File, Mr. Byrd contributed the following recount of his experiences. A copy of the student-revised constitution will be distributed in the File at a later date.

Homer Loucks, principal of Helena Senior High School, often claimed that the ideal method of teaching government would be through a semester of legislation--simply organize a class and let the students play the legislative role. So in January, 1970, we decided to let my advanced Montana history class revise the state constitution.

I advertised the course and recruited students. Of the 16 students who joined the class, 10 were superior and 6 were average. I assured them that there would be no lecture series, no tests and they would have the opportunity to fill in their own report cards at the end of the semester.

Our first problem was that we could find no textbooks on constitutional revision--not even an outline nor a set of guidelines to follow. The class decided that the first step, then, was to acquire copies of the existing constitution. The Montana Legislative Council gave us 20 copies of its Report No. 25 which contained the present constitution, amendments and recommended changes. The students also wrote to various states requesting copies of their constitutions for comparative purposes. Two invaluable sources we used were Salient Issues of Constitutional Revision and Model State Constitution printed by the National Municipal League.

The class organized itself into three committees, with each committee to review a different article, research and write a new article, and present its article to the entire class for ratification. We decided that a two-thirds vote would be necessary for adoption of each article and that upon completion of the constitution, each article--section by section--would have to be adopted by another two-thirds vote. The rationale for the latter rule was that all the articles were interrelated and that the students would be more knowledgeable at the end of the semester.

I served as chairman of the class and chief resource procurer. I suggest that teachers do not over-organize their groups. It is not necessary to have the students play a particular role or that they adhere strictly to political procedure.

The class contained an excellent range of political spectrum. There were five ultraliberals, five conservatives and six middle-of-the-roaders. The debates were superb and surely would have thrilled other adults as they did me. The questions were penetrating and often overtaxed my knowledge. When the students requested speakers or expert panelists from the community, I made the arrangements, and sometimes we left the classroom and visited a courtroom or state agency office. I recognize the advantage of conducting a class of this nature in the Capital City but I'm sure each community can call upon its legislators, lawyers, judges, editors and others to conduct its own hearings.

The course was the most exciting and exhilarating teaching experience I have ever had. I didn't miss a day, even when sick, and the students insisted on the right of granting proxy votes when they knew they had to be absent for a day or two. My views were never considered--apparently I represented the adult world that had tolerated such an archaic constitution. There were students who feared that if I spoke I would influence some of them, especially those students who still responded to the traditional student-teacher relationship.

I have tried to analyze the magic that prevailed and have found four factors which may have contributed to it: (1) the atmosphere was informal; (2) the real problem of constitutional revision was relevant; (3) the opportunity was presented for original research and the formulation of the students' own ideas and solutions; and (4) the students had the opportunity to test their conclusions through open debate, using reason and logic, propaganda, and sometimes pure emotion.

When the students ratified the last section, there was a feeling of elation by the entire class. They felt they had written a fine document. They were proud of their deliberations, and they were absolutely serious in their attempt to revise the Montana Constitution. I have only one regret--that I failed to record the entire session.

10

TITLE: "A Sketch of Montana's Constitutional History, 1864-1889"
AUTHOR: Margery H. Brown
NOTE: Mrs. Brown prepared the following article for the Constitutional Revision Commission in June 1970. A doctoral candidate in history at the University of Montana, Mrs. Brown served as a member of the Montana Constitution Revision Commission and the Montana Constitutional Convention Commission.

The Territorial Framework

The territory of Montana was created by Congress May 1, 1864, in response to requests from Bannack and Virginia City residents. They contended that Montana's growing population in the mining camps could not be governed properly from Lewiston, the capital of Idaho Territory, which had been formed in 1863 from parts of Washington and Dakota territories and which initially encompassed present-day Idaho, Wyoming and Montana.

For the next 25 years, Montana remained a territory, a governmental status designed to be transitional, a stepping stone to statehood. In Montana, the period was marked by repeated requests for admission to the Union. However, these requests went forth to Congresses that chose to await significant population growth in the West before accepting any changes in the national political balance. There was also little inclination in Washington to disturb a system which provided significant patronage opportunities.

The Organic Act enacted by Congress in 1864 set forth the constitutional framework for the Territory of Montana. Specific amendments were added in 1867, and through the years, congressional acts common to all the territories and acts relating specifically to Montana modified both structure and power of the departments of the territorial government.

A combination of elected and appointed officials formed policy and administered the affairs of territorial Montana. The President of the United States appointed the governor, secretary and Supreme Court justices to four-year terms. The President also appointed a United States attorney, a marshal and a surveyor-general to serve in the Montana Territory. Montanans elected members of a two-house legislature and a delegate to the United States House of Representatives, who could not vote, but who could debate in the House and serve on its committees.

The Organic Act originally provided for a legislature which would meet annually in 40-day sessions. The upper house, the Council, was initially assigned a membership of seven, elected for two-year terms, and membership of the House of Representatives was set at thirteen, elected for one-year terms. The Organic Act authorized the Legislative Assembly to increase the Council's membership to thirteen and that of the House to twenty-six, but in 1878, an act of Congress limited territorial councils to twelve members, and lower house membership to twenty-four. Both houses were apportioned according to population. In 1868 Congress stipulated that territorial legislatures were to meet biennially, and an act of 1869 provided that members of both houses should be elected for terms of two years. Legislative sessions in all of the territories were limited to 40 days by an act of 1873, but this limitation was extended to 60 days in 1880. The legislature had extensive law-making powers, limited only by the vote of the appointed governor (which could be overridden), by specific statutory instructions from Congress, and by the right of Congress to annul territorial legislative acts. That power was infrequently used, but Montana felt its full force in the midst of a partisan storm in 1866-67, and as a result, the acts of the two sessions of 1866 were annulled.

From 1864 to 1886 the territorial Supreme Court consisted of a chief justice and two associate justices. These justices also presided over the three judicial districts into which Montana was divided. In 1886 Congress altered the Montana system, providing for a Supreme Court of a chief justice and three associate justices, and the territory was then divided into four judicial districts. The Organic Act also provided for probate courts and for justice of the peace courts.

Convention of 1866

Montana's first constitutional convention was assembled in April, 1866, by proclamation of Acting Governor Thomas F. Meagher in the midst of a constitutional and political impasse. Under terms of the Organic Act creating the Montana Territory, the governor set the apportionment, the time of elections, and the place and time of convening the first territorial legislature. Thereafter, these matters were to be determined by law, but Governor Sidney Edgerton vetoed the first territorial legislature's apportionment act, and his veto was not overridden.

Meagher was appointed secretary of the territory in the summer of 1865, but elevated to acting governor soon after his arrival in Montana. At first he accepted advice that new enabling legislation was needed from Congress before the second legislative assembly could be convened. It was at this time that he proclaimed a constitutional convention to meet in Helena, instead of Virginia City (then the territorial capital), to fill the vacuum and provide a forum for discussion of territorial problems. The convention was initially set for March 1, but later delayed until April 9. Meagher next reversed his earlier decision and also convened the legislature, and it met in Virginia City from March 5 to April 14, 1866. Four of its twenty members were also delegates to the convention.

In summoning the convention, which Republican critics consistently denounced as a Democratic maneuver, Meagher asked for the election of ten delegates from Madison, Edgerton (later Lewis and Clark) and Deer Lodge counties, and five delegates from Beaverhead, Gallatin, Jefferson, Missoula and Chouteau counties: a total of 55. There was, however, great difficulty in assembling a quorum, and the convention was forced to resort to proxy voting in order to commence its deliberations. There were no funds appropriated for its work.

Robert C. Ewing of Edgerton County was elected presiding officer and H. N. Maguire, secretary. A committee was named on the second day to draft a constitution. It did its work in rapid time, reporting back on the fourth day, with a constitution (according to press accounts) patterned after the proposed Colorado constitution, with modifications borrowed from New York and California. On the fifth day, the convention accepted the proposed constitution, and on the sixth day the convention adjourned, instructing Maguire to have the consitution and proceedings printed in pamphlet form.

Historians have always been hard-pressed to carry the story of the 1866 convention beyond its adjournment. No money was available for printing the proposed constitution, nor has any evidence yet been found that it was printed or voted upon or sent to Congress. The traditional account has been that one of the convention delegates, Thomas E. Tutt of Edgerton County, took the document off to St. Louis for printing and that it was lost in the process. Maguire went on to a career in newspapering in the territory, and there is also conjecture that the consitution of 1866 might have gone up in flames when a fire destroyed his papers in 1872.

Although there were no immediate results of the 1866 convention, it did launch concern for statehood at a very early point in the territory's development. Montana remained more persistent than any of its neighboring territories in seeking enabling legislation from Congress to call a new convention, and the Montana Legislature acted on its own initiative in assembling the convention of 1884. In its ranks were three men who had gained their constitution-writing experience in 1866, and who remain links in Montana's constitutional history: Washington J. McCormick, who represented Deer Lodge County in 1866 and Missoula County in 1884, when he served as temporary chairman of the convention; Elihu B. Waterbury, an Edgerton County delegate in 1866 and a representative of Deer Lodge County in 1884; and W. Y. Pemberton, who represented Edgerton County in 1866 and Silver Bow County in 1884.

Convention of 1884

The Montana territorial legislature periodically memorialized Congress for enabling legislation for a constitutional convention in the years between 1866 and 1883, but these memorials met no favorable response. The Legislative Assembly moved alone in January, 1883, and by joint resolution called for a constitutional convention to meet in January, 1884. A special election was conducted in November 1883, to elect 45 delegates. Six represented the three judicial districts into which the territory was divided and thirty-nine represented the territory's thirteen counties.

The constitutional convention of 1884 met in Helena for twenty-seven days, from January 14 to February 9. W. A. Clark, then firmly established in territorial banking and mining enterprises and a delegate from Silver Bow County, was elected chairman (a position he would again hold in 1889) and P. L. Van Cleve of Yellowstone County was selected convention secretary.

Convention ranks included several men with experience as legislators or executive officers in territorial government--among them, Cornelius Hedges, longtime superintendent of schools; James H. Mills, newspaper editor and onetime territorial secretary; James E. Callaway, lawyer and former territorial secretary; and legislative veterans such as James Fergus, W. J. McCormick and E. B. Waterbury. There were the mining captains Clark and Marcus Daly and the steamboating entrepreneur and future U. S. Senator T. C. Power. Joseph K. Toole, who would later serve as territorial delegate and first (and three-term) governor of the state, was a prime mover of the convention, as were several other lawyers, among them W. W. Dixon, W. H. Hunt, and A. F. Burleigh. Mercantile interests were represented by such men as Walter Cooper of Gallatin County and R. A. Eddy of Missoula County.

The convention was divided into 22 standing committees, concerned chiefly with drafting the various substantive areas of the proposed constitution. After some debate, it was decided that the best course would be for each standing committee to consider pertinent sections of other state constitutions and to act on any resolution or proposition referred to it by the convention. Committee membership varied from three to nine members, with the three largest committees assigned to draft articles on the Judiciary, State Finances, and Mining, Water and Water Rights. The committees were appointed on the fourth day of the convention and began to return reports for debate in the committee of the whole and formal action by the convention on the ninth day. The completed draft was signed February 9, 1884, and an accompanying ordinance specified that Montana voters would vote for ratification or rejection at the November 1884, general election. Meantime "An Address to the Voters of the Territory of Montana" was circulated to set forth the salient points of the proposed constitution. Montana voters approved the document by a vote of 15,506 - 4,266, but Congress continued to delay admission of western territories until 1889.

Although their efforts were apparently frustrated, the framers of the 1884 Constitution occupy a significant place in Montana's constitutional history. An analysis of the 1889 Constitution indicates that an overwhelming proportion (an estimated ninety percent of the text) of the constitution articles framed in 1884 were carried over, approved, and incorporated in the 1889 Constitution, and remain the substance of Montana's fundamental law to this day.

In the 1884 convention, Montana's plural elective executive was established. The Supreme Court was established as a separate court, with its elected membership distinct from the judges who presided over the district courts. Notably, the legislative article in the 1884 Constitution posed more numerous restrictions on the legislature than had the territorial system. Except for an initial session of 60 days, the Legislative Assembly was to meet for 40-day biennial sessions. Both houses of the legislature were to be apportioned according to population. And the legislative article, replete with rules of procedure and restrictions, was cast in terms almost identical to those adopted in 1889. Other distinctive features of the 1884 Constitution (altered in 1889) included the provision of two-year terms for the executive officers, an elective board of regents and a system of county courts.

The historic battle ending in constitutional restriction of taxation on mines to the value of surface improvements and net proceeds was waged in 1884. Woman suffrage was suggested, but considered in committees as unwise; however, the legislature was authorized to extend to women the privilege of voting in school elections and of holding school offices. Extended debate and detailed constitutional provisions governed issuance of free passes by railroads and other transportation companies to public officers, and detailed constitutional regulation of corporations also was spelled out in 1884. The 1884 framers firmly committed Montana to the maintenance of a system of free public schools, with admission to all between the ages of five and twenty-one years. Three months of school was the minimum allowed to any school district in the state and careful provision was made for the management of income and interest from school lands.

The 1884 Constitution provided for future changes to be made by convention or single amendments. There was no limit on the number of amendments that could be proposed by the legislature (the three amendment per election limit was added in 1889) and it took a majority vote, not a two-thirds as now required, for the legislature to propose either amendments or a convention.

Convention of 1889

Congressional deadlock and delay over admitting western territories gave way after the election of 1888. As a result, an Omnibus Act of February 22, 1889, permitted North Dakota, South Dakota, Washington and Montana to commence the process leading to statehood.

Under terms of the enabling legislation, a convention of 75 delegates was to be elected at a special Montana election May 7, 1889, and the convention was to assemble in Helena July 4 to form a constitution as the main step to full admission into the Union. Certain stipulations were included: the constitution of the United States was to be adopted and the state constitution was to be republican in form. There was to be no distinction in civil or political rights on account of race or color ("except as to Indians not taxed") and the new constitution was not to be "repugnant to the constitution of the United States and the principles of the Declaration of Independence."

Specifically, the Enabling Act provided that religious freedom had to be secured and a system of public schools provided. Other sections of the Enabling Act made available the land grants that Montana as a territory had not been eligible to receive and use for school, university and college purposes, and additional grants were provided for funds for public buildings and institutions.

Montana's population had grown from 39,159 in 1880 to about 142,000 in 1890. The railroads were in and the range stock industry had brought population to the eastern plains. Counties had increased from thirteen in 1884 to sixteen in 1889. In population these counties ranged from Dawson, with 2,000 people to Silver Bow, with a population of 48,000. Reconciliation of the divergent population of counties and of the divergent economies of the mining counties in the west and the eastern plains counties was to be the major test of the convention's ability for compromise. Compromise ultimately came, however, in the plans for legislative apportionment (specifically, by applying the federal principle to county representation in the state Senate and providing for one Senator from each county) and in carrying over the mines tax exemption from territorial law and provisions of the 1884 constitution.

The 1889 convention assembled at the new Courthouse in Helena July 4, 1889. Seven members of the 1884 convention were returned to the 1889 convention and again played principal roles in its deliberations: William A. Clark, who again was elected to preside; Joseph K. Toole, Walter Cooper, James E. Callaway, Timothy E. Collins, W.W. Dixon and George O. Eaton. Among those who joined them in 1889 were other men prominent in territorial government, including Hiram Knowles, who had been Chief Justice of the territorial Supreme Court; B. Platt Carpenter, former territorial govenor, and Martin Maginnis, who had been a highly successful territorial delegate to Congress from Montana. Among other delegates in 1889 who took active roles in debate and in committee work were John R. Toole, Conrad Kohrs, George W. Stapleton, Louis Rotwitt, John C. Robinson, John E. Rickards (later govenor), William Parberry, Charles S. Marshall, Llewellyn Luce, Richard Hickman, Lewis Hershfield, Arthur Craven, William A. Chessman, Edward Cardwell, Charles H. Louis, Alfred Meyers, Peter Breen and Charles S. Hartman (later Congressman from Montana).

An analysis of the convention's membership has shown that more than half of the members were associated with mining in an economic way: either directly engaged in the operation of mines or holding considerable mining stock, or dealing in mining law. Forty-six delegates had served in a legislature or had experience on the bench or in municipal government. Lawyers were in the majority with twenty-three delegates, and there were nine representatives of the range industry.

The 1889 convention was divided into 23 standing committees, with the procedure of 1884 repeated: resolutions and propositions were assigned to the appropriate committees, who reported back to the convention for action in the committee of the whole and in formal session. Basic to committee considerations were provisions of the 1884 Constitution and pertinent sections from other state constitutions, especially those recently enacted in the West. As noted, the great majority of the provisions of the 1884 Constitution were reported back to the convention verbatim. However, debate was not thereby reduced--as the 800,000 words in the published *Proceedings and Debates* indicate.[1]

Although convention delegates in 1889 well knew the theory of fundamental law and the desirability of keeping legislation out of the constitution, almost to a man they argued for an exception when a matter of particular interest or importance to them was being considered. John W. Smurr has noted: "The men of 1889 thought that the prime duty of a constitution was to reduce every contingency of life to a proposition at law," and that while "the other fellow's resolution was unnecessary, long-winded, legislative, and superfluous; one's own was a vital addition to the organic law, and to leave it out was to incite the legislature to every kind of excess."

Although there was a tendency to leave such controversial issues as settlement of the site of the state capital to the end of the session (that issue was ultimately settled by referring the decision to a vote in 1892), what was a generally harmonious convention concluded its labors and signed the constitution August 17, 1889.

The Enabling Act provided for an election October 1 on the constitution and also authorized election of state and county officers, legislators and congressmen, who would commence their duties if and when the state was admitted. Voters ratified the constitution by a vote of 26,950 to 2,274, and President Benjamin Harrison proclaimed Montana to be the Union's forty-first state November 8, 1889.

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[1]The Twelfth Legislative Assembly of the State of Montana authorized publication of the debates and proceedings of the Convention of 1889 and the 1919 Legislative Assembly appropriated funds for that purpose. The *Proceedings* were published in 1921 and include a detailed record of the transactions of the convention. There are available two studies of the Constitutional Convention of 1889 that were written as master's theses at the University of Montana: John W. Smurr, "A Critical Study of the Montana Constitutional Convention of 1889" (1951) and Brian E. Cockhill, "An Economic Analysis of Montana's Constitution" (1968). Of the Montana histories, the most detailed treatment is given the convention in James M. Hamilton, *From Wilderness to Statehood* (Portland: Binfords and Mort, 1957).

11

TOPIC: Convention News, January 17-21, 1972
SOURCE: Constitutional Convention Public Information Office

Each week during the Convention, news items and summaries will be released from the Public Information Office of the Constitutional Convention. Attached are two news articles released during the first week of the Convention.

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

Contact Elizabeth Harrison 449-3776

January 19, 1972

For Immediate Release

HELENA -- The Montana Constitutional Convention today voted 61 to 37 to establish Tuesday through Saturday as the "work week" for convention business.

Delegates, in debating the issue, emphasized the importance of Saturday meetings to permit attendance by those whose own Monday-through-Friday responsibilities would prevent them from attending the convention unless Saturday sessions were held.

Delegate Carl M. Davis of Dillon, who led the Tuesday-Saturday effort, pointed out that Montana has 25,000 to 30,000 college students of voting age and thousands of teachers and professors whose schedules would otherwise preclude their observation of the convention, as well as many citizens who work a Monday-through-Friday week.

"We want to give them the opportunity to attend," Davis said. "The students of today are the ones who will make this constitution work, and we ought to take their schedules into consideration."

more

The Tuesday-through-Saturday week will enable the convention to work Saturdays without incurring the added cost of overtime pay for its employees. The new schedule takes effect on Tuesday, January 25.

The delegates did not plan to meet formally on Saturday, January 22, although there were some plans for committee meetings on that date, as well as on Monday, January 24.

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REMARKS OF THE PRESIDENT

January 17, 1972

MONTANA CONSTITUTIONAL CONVENTION

The preliminaries are over and it is now time for this group of elected delegates to carry out the task of writing a Constitution for Montana. We will, in the next few weeks, reduce to words the principles and guidelines by which we expect to order our system of government for the foreseeable future. John Locke has explained that these words should not be our goal -- rather our own best ideas should:

> "We should have a great many fewer disputes in the world if words were taken for what they are, the signs of our ideas only, and not for things themselves." (Locke, "Essay on Human Understanding")

Ladies and Gentlemen, the job to be done has been started. The quality of that start has been outstanding. Hopefully, our efforts to accomplish the task ahead will continue to be high in quality.

This body knows what is expected of them. This body knows what it means to write the document.

This is what John Toole believes. In his editorial he said:

"During 1972, the people of Montana will be faced with an important question: Are we willing to bring about changes in our government which will make state and local government more economical, more flexible and more responsive to our needs? Change is sometimes painful but in a dynamic society it is also vital."

This is what Louise Cross believes:

"Among all people, Americans have the highest standard of living; but, there is a real question of how long our present rate of consumption can be sustained under present practices of conservation. Between the knowledge that our economy must proceed, and that man must somehow rise above his own immediate gain, the delegates to this Convention must decide what they shall do."

This is what Wade Dahood believes:

"It is time for aroused citizenry through its Constitutional Delegates to restate the constitutional commandments that require government to always respond to the needs of the people who have created it."

And this is what Thomas Joyce believes:

"It is my view that the Convention cannot, and should not, try to solve any contemporary governmental problem. Rather, its purpose is to facilitate the

future solution of contemporary problems as well as problems not presently foreseeable."

I have only mentioned a few; I wish I could mention others. But this body knows what the writing of the Constitution is all about.

My conviction is that we should turn our viewpoints toward the future. This is a time of transition -- it will continue to be. The central truth of our time is change -- constant, accelerating change.

Think with me for a moment of Montana in the year 1900. Montana had no automobiles, no paved roads, no electric lights, no radios and TV's, no telephones to speak of. Most of our grandparents did physical labor or associated jobs for long hours. They had railroads to take them to the eastern seaboard once or twice a lifetime. (Something we don't have!) Things have changed!

Now list in your imaginations the State of Montana in the year 2040: What will the family be like? What will the transportation system be? The school system? What type of communications will we have? What will be the work week and how will our grandchildren spend their leisure time? Do you really think things won't change as much in the next 70 years?

Things will change even faster. And we should be thinking about how our Constitution will fit the situation.

As citizens our viewpoints are usually contemporary and based on much shorter spans. We do not think about the future; we are not asked about it. As Alvin Toffler says about us in "Future Shock":

> "The voter may be polled about specific issues, never about the general shape of the preferable future. Indeed, nowhere in politics is there an institution through which an ordinary man can express his ideas about what the distant future ought to look, feel or taste like. He is never asked to think about this, and on the rare occasions when he does, there is no organized way for him to feed his ideas into the arena of politics. Cut off from the future, he becomes a political eunuch." ("Future Shock" by Alvin Toffler)

But this body has the opportunity to consider the future. This Convention is a way for each of us, and for each of Montana's citizens to concern ourselves with the general shape of the future. We have that opportunity.

But <u>How</u> can we accomplish our work? I would simply seek to remind you that we must be 'open'. Open to <u>ideas</u>, to opinions, to debate. We must also be open to our own conscience and our inner selves. We must seek guidance and good fellowship right here in this room. We must be responsive to each other.

If we can make government work here, then perhaps we can help Montana move into the future with confidence and vision.

Montana, our Montana, is a great vast state that has been badly robbed and left little of the financial gain it has produced in the past. And lately, for lack of opportunity, she has been left without her greatest resource -- young people.

But these young Montanans want to return to their great State, because Montana embodies all the things that they find worthwhile -- our great open space, shining mountains and clear streams. The good life. If only for that reason Montana must move into the future with confidence and vision through a document that will be written to respond sensitively to her needs.

My good wishes. May God bless you and keep you.

12

TOPIC: Summary of the Constitutional Convention Enabling Act
SOURCE: Montana Constitutional Convention Commission

The Forty-second Legislative Assembly of Montana passed an enabling act, summarized on the attached pages, which provided for the selection of delegates, the date and procedure for convening the delegates, the convention site, the preconvention planning and research, the appropriations and the compensation of delegates. The Montana Constitution Revision Commission assisted the legislature in preparing for the Convention by proposing recommendations for inclusion in the enabling act.

SUMMARY OF CONSTITUTIONAL CONVENTION ENABLING ACT

November 3, 1970, Montanans voted to call a constitutional convention to revise, alter, or amend the Montana Constitution. In accordance with Article XIX, Section 8 of the Montana Constitution, as interpreted by the Montana Supreme Court, the legislative assembly has enacted and the Governor signed a Constitutional Convention Enabling Act to establish the Constitutional Convention. Following is a summary of the provisions of this act.

1. The convention is meeting in the House of Representative chamber in the State Capitol in Helena.

2. The number of members of the convention and the districts from which they were elected is the same as that provided for the election of the members of the next House of Representatives. The new apportionment provides for 100 delegates from 23 districts.

3. Any state and local officers who are prohibited by the constitution or laws of Montana from holding more than one office may not serve as delegates to the constitutional convention. A delegate to the constitutional convention is a "state officer" holding a public office of a civil nature.

4. According to the constitution, a delegate must be twenty-four years of age, a citizen of the United States, a resident of the district in which he was elected for at least twelve months, preceding the election.

5. Delegates to the constitutional convention were elected in the same manner as members of the House of Representatives. Candidates could therefore file and run as independents or as party candidates.

6. Independent candidates filed with the Secretary of State a certificate of nomination, according to Section 23-3318 Revised Codes of Montana, 1947. This certificate was filed by August 4, 1971. The certificate must have contained signatures of electors equal to five percent or more of the total vote cast for the representative who received the lowest vote but was still elected at the 1970 general election in the district.

7. Party candidates must have filed a declaration of nomination with the Secretary of State by August 5, 1971, according to Section 23-3304 Revised Codes of Montana, 1947.

8. Candidates paid a filing fee of $15 when filing.

9. The party primary for nomination of party candidates was held September 14, 1971.

10. The special general election for convention delegates was held November 2, 1971.

11. The Convention assembled for a three-day organizational meeting November 29, 1971, for the purpose of electing permanent Convention officers, adopting rules of procedure, and providing for such interim committees and staff as may be necessary to prepare for the main meeting of the Convention.

12. The main meeting of the Convention began January 17, 1972. The Convention, which may recess from time to time, may remain in session as long as necessary.

13. Lobbists are required to register and report expenditures.

14. For each day of the session, member and officers of the Convention are paid the same per diem ($20 per day) and expenses ($25 per day) as provided by law for members and officers of the Legislative Assembly.

15. Members and officers are entitled to milage for three trips to and from their residences and Helena at the rate provided for the Legislative Assembly (9 cents a mile).

16. The revision or alteration of, or amendments to the Constitution adopted by the Convention, shall be submitted to the electors of the State for ratification or rejection, at an election appointed by the Convention for that purpose, no less than two months nor more than six months after the adjournment of the Convention.

17. The Convention may submit proposals to the electorate for ratification in any of the following forms: (a) submitted as a unit in the form of a new Constitution; (b) submitted as a unit with the exception of separate proposals to be voted upon individually, or (c) submitted in the form of a series of separate amendments.

18. Each proposed revision, alteration, or amendment, together with appropriate information explaining each revision, alteration, or amendment, shall be published in full and disseminated to the electors, upon adjournment of the Convention, but not later than thirty days preceding the ratification election.

19. A temporary citizens commission known as the Montana Constitutional Convention Commission was created to prepare for the Constitutional Convention. The Governor, Supreme Court, House of Representatives and Senate each appointed four members, no more than two of whom belonged to the same political party. Legislators could not be appointed. The Commission compiled without recommendation, essential information for the delegates. Nineteen of the last twenty major Constitutional Conventions have been preceded by preparatory commissions. When the delegates assembled, they had full, detailed and comprehensive analysis of the constitutional problems confronting Montana. The rank-and-file delegate could hardly be expected to be an authority in all matters impinging upon the constitutional structure of the State. He needs material which he can turn to immediately and continually.

13

REPRINT: "Untold Generations' to get New Constitution"
SOURCE: The Montana Historical Society

Staff members at the Montana Historical Society have conducted extensive research on constitutional history in the state and have prepared a number of exhibits pertaining to the subject. From the November-December 1971 issue of the Montana Post (the official newsletter of the Society), the attached article documents some comments from the press in the late 1880s.

"UNTOLD GENERATIONS" TO GET NEW CONSTITUTION

Later this month, Montana will begin facing an historical challenge, one which will result in a new or revised constitution. Those who come to Helena to write the document, as well as many of their constituents, will view with interest the three-part historical display, pictured below, researched by Librarian Harriett Meloy and her staff and created by Curator Bob Morgan and his associates. Here may be seen, through documents and pictures and maps, the three occasions on which Montana struggled toward statehood and toward writing a viable document the people would approve.

The convention of 1889, creator of the constitution under which Montana has functioned since statehood, was not the first attempt at writing such a document, nor was it to be the last, despite the oratorical assertion of William A. Clark. The famous Copper King, who had been president of both the 1884 and 1889 conventions, made the overblown statement in the latter year that the document just written would "stand as the basis of government in Montana for this and all the untold generations that are to follow."

The "untold generations" have lasted 82 years, and now the descendants of the electorate and conferees (some of them in direct line) will attempt to rewrite the document, in whole or in part.

In preparation for the display and for this issue of THE POST, there has been some delving into the historical record of Montana's constitution-writing efforts. The press of 1889, particularly, reveals some startling parallels with the present, some humor and some colorful jockeying for position.

The first attempt at writing a constitution, with statehood in mind, came very early in our Territorial history—less than two years after the Territory was created, in fact, when the population totaled scarcely 20,000 souls.

The flamboyant Irish revolutionary, Thomas Francis Meagher, serving as Acting Governor between the terms of Sidney Edgerton and Green Clay Smith, called the first convention to meet on March 1, 1866. A sign of the chaotic political times was the fact that the convention was called for Helena instead of Virginia City, then Territorial capital. But this was only one irregularity in this premature and ill-starred affair. No public funds were available, there was no public vote on the document written in six hectic days. Indeed, this constitution was never printed—it simply disappeared. Two versions of the disappearance persist. One has it that the document was lost in transit to St. Louis, where it was to be printed. The other version claims that it was kept among the private papers of Convention Secretary Horace N. Maguire and later destroyed in a fire.

The next attempt at writing a constitution came in 1884, when the Territory was 18 years older and boasted a voting population of some 20,000. Called for Helena (then the official capital city) in January, the convention had its work finished on February 9. It was properly printed and presented to the electorate, which approved it, 15,506 to 4,266. But this time there was trouble in Washington: a political deadlock between the Senate and House shut off the admission of any new states.

Five years later, however, the impasse ended, and once more Montana tended to the business of writing a constitution as a prelude to statehood. Fittingly, the first meeting was held on July 4. The result was voter ratification (26,950 to 2,274) in October, and swift admission to the Union (in an Omnibus Bill which also admitted the two Dakotas and Washington) on November 8, 1889.

But before all this was accomplished, there were some editorial blasts in the press of Montana, and some startling statements on the floor of the convention. The right to vote aspects of the document—whether the enfranchised voter was to be a woman or an alien—came in for some of the most colorful pronouncements, although as it turned out, Montana's constitution-writers were in tune with the times, no more or less prejudiced or misguided than most of their counterparts in other new states.

"It is somewhat uncomfortable to reflect," thundered Silver Bow (Butte) Delegate Charles S. Warren, "that a citizen of intelligence, property, and good moral character, and a keen sense of the responsibilities and dignities of his duties as an American citizen, may have his ballot offset by an Italian Lazzarone, exuding garlic at every pour (sic) of his otherwise unpleasant body, whose intelligence does not equal that of the monkey for whom he grinds the organ, and upon whose sense, industry and honesty he depends for his maintenance and macaroni."

Joseph K. Toole, a delegate from Lewis and Clark County and the man who was to become the new state's first Governor, commented on the right to vote issue in these words: "I would not consent to the proposed enlargement of the political franchise if I were in the legislature; much less am I willing to establish that right as an exorable principle in the constitution."

The Helena Independent tended to be conservative when it came to giving the vote to women. In the issue of July 19, the editor said, "The Independent does not assume that women are not qualified to intelligently exercise the electoral privilege. Unquestionably they are equal to men in intelligence and probity. The argument at this time is not against woman suffrage, but against the extension of the right to vote to women or to any class of men not already endowed with the right until the question shall have been submitted to and decided by a vote of the people."

The rival Daily Herald editor, though, went all out for women: "The argument that suffrage represents physical superiority is not borne out by natural facts or history . . . Who has not seen an attenuated mother cat unhesitatingly mount the biggest dog and send him yelping from the premises while the tom cats were crawling under the barns . . ."

A couple of decades after the 1889 constitution writers had their document prepared, the issue of voting rights was federally resolved. And no one is concerned anymore about where a voter was born or whether or not he eats garlic. But there is an issue confronting the writers of the new constitution which also came in the considerations of 82 years ago: the bicameral versus the unicameral legislature.

On July 16, The Independent supported the one-house concept: "The House of Lords," the paper said, in part, "is tottering to its fall, and fifty years hence, it may be predicted there will be only the commons and the crown . . . It is not rational to elect one body to watch another, as is the theory of the two houses of state legislature. The time has not yet come, perhaps, for full recognition of the absurdity of this matter, but it will surely come, and when it does 'the senate must go,' so far as state legislatures are concerned . . . The argument will always hold that the existence of two houses of a legislature, both emanating directly from the people, is an extravagance and totally unnecessary."

Another extravagance, strongly criticized by The Independent, were high salaries: "The Constitutional Convention is disposed to be very liberal in the matters of salaries," the editor trumpeted. "The proposition to pay the Governor of Montana $5,000 invites comparisons . . ."

Besides choosing Helena as the permanent seat of government upon admission to the Union, the 1889 constitution read almost exactly like that of 1884. The delegates stayed for their allotted 60 days and went home, most of them presumably serene, as was their president, that they had written a document that would "stand as the basis of government in Montana for this and all untold generations that are to follow."

And publicly, at least, there were no "male chauvinist" cries from women. Montana women had, in fact, emerged with something: taxpayers among them were allowed to vote on questions submitted to taxpayers if they possessed other qualifications necessary to vote. They could take comfort in the fact that a surprising number of male delegates supported full franchise for them in 1889. And perhaps many of them agreed with Delegate Martin Maginnis of Helena when he said that woman remains "the regenerator of mankind," too pure to be contaminated by the politics of men.

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MONTANA POST*

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*NOT INTENDED AS A CONTINUATION OF THE MONTANA POST, MONTANA'S FIRST DUNA SIDE NEWSPAPER PUBLISHED AT VIRGINIA CITY, M.T. FROM AUG. 27, 1864 THROUGH MARCH 28, 1865 AND AT HELENA, M.T. FROM APRIL 23, 1865 THROUGH JUNE 17, 1865.

TOPIC: Copy of the Montana Constitution

Recognizing that students may wish to refer to the existing Montana Constitution and that copies of the Constitution may not be on permanent loan for the students' use, a classroom copy attached has been reprinted from Report Number 3 of the Montana Constitutional Convention studies prepared by the Montana Constitutional Convention Commission.

CONSTITUTION

of the

STATE
OF MONTANA

CONSTITUTION OF MONTANA

Article

I. Boundaries.
II. Military Reservations.
III. Declaration of Rights of the People of the State of Montana.
IV. Distribution of Powers.
V. Legislative Department.
VI. Apportionment and Representation.
VII. Executive Department.
VIII. Judicial Departments.
IX. Rights of Suffrage and Qualifications to Hold Office.
X. State Institutions and Public Buildings.
XI. Education.
XII. Revenue and Taxation.
XIII. Public Indebtedness.
XIV. Military Affairs.
XV. Corporations Other Than Municipal.
XVI. Counties—Municipal Corporations and Offices.
XVII. Public Lands.
XVIII. Labor.
XIX. Miscellaneous Subjects and Future Amendments.
XX. Schedule.
XXI. Montana Trust and Legacy Fund.

Ordinance

I. Federal Relations.
II. Elections.

CONSTITUTION

OF THE

STATE OF MONTANA

PREAMBLE

We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do, in accordance with the provisions of the enabling act of congress, approved the twenty-second of February, A. D. 1889, ordain and establish this constitution.

ARTICLE I

BOUNDARIES

Section 1. The boundaries of the state of Montana shall be as follows, to-wit: Beginning at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude, thence due west on the forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington, thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky mountains, thence following the crest of the Rocky mountains northward to its intersection with the Bitter Root mountains; thence northward along the crest of the Bitter Root mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along that boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude to the place of beginning.

ARTICLE II

MILITARY RESERVATIONS

Section 1. Authority is hereby granted to and acknowledged in the United States to exercise exclusive legislation, as provided by the constitution of the United States, over the military reservations of Fort

Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula, and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the legislative assembly of the state of Montana; and the legislative assembly is authorized and directed to enact any law necessary or proper to give effect to this article.

Provided, that there be and is hereby reserved to the state the right to serve all legal process of the state, both civil and criminal, upon persons and property found within any of said reservations, in all cases where the United States has not exclusive jurisdiction.

ARTICLE III

A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA

Section 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 2. The people of the state have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the constitution of the United States.

Sec. 3. All persons are born equally free, and have certain natural, essential, and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

Sec. 4. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed, and no person shall be denied any civil or political right or privilege on account of his opinions concerning religion, but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, by bigamous or polygamous marriage, or otherwise, or justify practices inconsistent with the good order, peace, or safety of the state, or opposed to the civil authority thereof, or of the United States. No person shall be required to attend any place of worship or support any ministry, religious sect, or denomination, against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

Sec. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sec. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property, or character; and that right and justice shall be administered without sale, denial, or delay.

Sec. 7. The people shall be secure in their persons, papers, homes, and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

Sec. 8. Criminal offenses of which justice's courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall, in his discretion, consider it necessary, and shall so order.

Sec. 9. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislative assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

Sec. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Sec. 11. No ex post facto law nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislative assembly.

Sec. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Sec. 13. The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to or paid into court for the owner.

Sec. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution, or other beneficial use, and the right of way over the lands of others, for all ditches, drains, flumes, canals, and aqueducts, necessarily used in connection therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited.

Sec. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Sec. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the state.

Sec. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense.

Sec. 19. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Sec. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Sec. 21. The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

Sec. 22. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

Sec. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance, or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived,

or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court, both in civil cases and in cases of criminal misdemeanor, shall consist of not more than six persons. In all civil actions and in all criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all such jury concurred therein.

Sec. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect the power of the legislative assembly to provide for punishing offenses by death.

Sec. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit, and inherit mines and mining property, and milling, reduction, concentrating, and other works, and real property necessary for or connected with the business of mining and treating ores and minerals: provided, that nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

NOTE.—As to right of nonresident alien to inherit other than mining property, see section 91-519 et seq.

Sec. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sec. 27. No person shall be deprived of life, liberty, or property without due process of law.

Sec. 28. There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sec. 29. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Sec. 30. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Sec. 31. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislative assembly, or of the governor when the legislative assembly cannot be convened.

ARTICLE IV

DISTRIBUTION OF POWERS

Section 1. The powers of the government of this state are divided into three distinct departments: The legislative, executive, and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE V

LEGISLATIVE DEPARTMENT

Section 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, of this constitution, independent of the legislative assembly; and also reserve power, at their own option, to approve or reject at the polls, any act of the legislative assembly, except as to laws necessary for the immediate preservation of the public peace, health, or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, of this constitution. The first power reserved by the people is the initiative and eight per cent. of the legal voters of the state shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight per cent. of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state, not less than four months before the election at which they are to be voted upon.

The second power is the referendum, and it may be ordered either by petition signed by five per cent. of the legal voters of the state; provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent. of the legal voters in such county, or, by the legislative assembly as other bills are enacted.

Referendum petitions shall be filed with the secretary of state, not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by initiative or referendum petitions.

All elections on measures referred to the people of the state shall be had at the biennial regular general election, except when the legislative assembly, by a majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent. of the legal voters of a majority of the whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the initiative or referendum shall be the basis on which the number of legal petitions and orders for the initiative and for the referendum shall be filed with the secretary of state; and in submitting the same to the people, he, and all other officers, shall be guided by the

general laws and the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the initiative shall be as follows:

"Be it enacted by the people of Montana:"

This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure.

NOTE.—Section 1 is given as amended by act approved March 2, 1905 (chapter 61, Laws of 1905), declared to be in force by proclamation by the governor December 7, 1906.

Sec. 2. Senators shall be elected for the term of four years, and representatives for the term of two years, except as otherwise provided in this constitution.

Sec. 3. No person shall be a representative who shall not have attained the age of twenty-one years, or a senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

Sec. 4.

Repeal

This section was repealed by chapter 273, Laws of 1965, adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 5. Each member of the first legislative assembly, as a compensation for his services shall receive six dollars for each day's attendance, and twenty cents for each mile necessarily traveled in going to and returning from the seat of government to his residence by the usually traveled route, and shall receive no other compensation, perquisite, or allowance whatsoever.

No session of the legislative assembly, after the first, which may be ninety days, shall exceed sixty days.

After the first session, the compensation of the members of the legislative assembly shall be as provided by law; provided, that no legislative assembly shall fix its own compensation.

Proposed Amendment

Chapter 248, Laws of 1967, proposes to amend this section to read as follows:

"Section 5. No session of the legislative assembly shall exceed eighty (80) days.

"The compensation of the members of the legislative assembly shall be as provided by law; however, no legislative assembly shall fix its own compensation. Per diem and expense payments to members for days in session shall not be made for more than eighty (80) days."

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 6. The legislative assembly (except the first) shall meet at the seat of government at twelve o'clock noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the governor.

The term of service of the members thereof shall begin the next day after their election, until otherwise provided by law; provided, that the first legislative assembly shall meet at the seat of government upon the proclamation of the governor after the admission of the state into the Union, upon a day to be named in said proclamation, and which shall not be more than fifteen nor less than ten days after the admission of the state into the Union.

Sec. 7. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

Sec. 8. No member of either house shall, during the term for which he shall have been elected, receive any increase of salary or mileage under any law passed during such term.

Sec. 9. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president pro tempore. The house of representatives shall elect one of its members speaker. Each house shall choose its other officers, and shall judge of the elections, returns, and qualifications of its members.

Sec. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the legislative assembly of a free state.

A member expelled for corruption shall not thereafter be eligible to either house of the legislative assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

Sec. 12. Each house shall keep a journal of its proceedings, and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the request of any two members, be entered on the journal.

Sec. 13. The sessions of each house and of the committees of the whole shall be open, unless the business is such as requires secrecy.

Sec. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 15. The members of the legislative assembly shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 16. The sole power of impeachment shall vest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose, and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

Sec. 17. The governor, and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

Sec. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

Sec. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

Sec. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of Montana."

Sec. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

Sec. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

Sec. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Sec. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

Sec. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

Sec. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, township or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

Sec. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

Sec. 28. The legislative assembly shall prescribe by law the number, duties and compensation of the officers and employees of each house; and no payment shall be made from the state treasury, or be in any way author-

ized to any such person, except to an acting officer or employee elected or appointed in pursuance of law.

Sec. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the state without previous authority of law, except as may be otherwise provided herein.

Sec. 30. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, shall be furnished, and the printing, and binding and distribution of the laws, journals, and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislative assembly, and its committees shall be performed under contract, to be given to the lowest responsible bidder below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

Sec. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment: provided, that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

Proposed Amendment

Chapter 154, Laws of 1967, proposes to amend this section to read as follows:

"Sec. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or diminish his salary or emolument after his election or appointment: provided, that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution."

Sec. 32. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.

Sec. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

Sec. 34. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.

Sec. 35. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

Sec. 36. The legislative assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal functions whatever.

Sec. 37. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

Sec. 38. The legislative assembly shall have no power to pass any law authorizing the state, or any county in the state, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.

Sec. 39. Except as hereinafter provided, no obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the legislative assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

It shall however be lawful for the legislative assembly, in such manner as it may direct, to authorize the cancellation of any personal property taxes which are not a lien on real estate and which have been delinquent for ten (10) years or more.

It shall also be lawful for the legislative assembly, in such manner as it may direct, to authorize the cancellation of any contractual obligation owed to or held by a county, for seed grain, feed or other relief, the collection of which obligation is barred by the statute of limitations.

NOTE.—Section 39 of article V is given as amended by act approved March 5, 1947 (chapter 197, Laws of 1947); adopted at the general election of November 2, 1948; effective under governor's proclamation December 3, 1948.

Sec. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

Sec. 41. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such legislative assembly, or offer, promise

or assent so to do, upon condition that any other member will give, or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery; and any member of the legislative assembly, or person elected thereto, who shall be guilty of either such offenses, shall be expelled and shall not thereafter be eligible to the legislative assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

Sec. 42. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the legislative assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

Sec. 43. The offense of corrupt solicitation of members of the legislative assembly, or of public officers of the state, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punishable by fine and imprisonment.

Sec. 44. A member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

Sec. 45.

Repeal

This section, as amended by chapter 137, Laws of 1931, was repealed by chapter 273, Laws of 1965, adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 46. The legislative assembly in order to insure continuity of state and local governmental operations in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated.

(2) To adopt other measures that may be necessary to insure the continuity of governmental operations.

Such laws shall be effective only during the emergency that affects a particular office or governmental operation, and such laws may deviate from other provisions of the Montana constitution, including but not limited to the following sections:

(1) Section 3, Article X, seat of state government.

(2) Section 2, Article XVI, seat of county governments.

(3) Section 16, Article VII, succession to governor.

(4) Section 4, Article XVI, vacancy on board of county commissioners.
(5) Section 6, Article XVI, other vacancies in county government.
(6) Section 45, Article V, vacancies in legislative assembly.
(7) Section 11, Article VII, special legislative sessions.
(8) Section 5, Article V, length of legislative session.
(9) Section 10, Article V, quorum to do business in each house.
(10) Section 6, Article XIX, location of county offices.
(11) Section 1, Article VII, duties of executive officers of state.
(12) Section 7, Article VII, appointments by governor.

NOTE.—Section 46 of article V was enacted as chapter 243, Laws of 1965, approved March 9, 1965; submitted and adopted at the general election of November 8, 1966, and became law by virtue of the governor's proclamation, December 6, 1966.

ARTICLE VI

APPORTIONMENT AND REPRESENTATION

Section 1. One representative in the congress of the United States shall be elected from the state at large, the first Tuesday in October, 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by congress the legislative assembly shall divide the state into congressional districts accordingly.

Sec. 2. (1) The senate and house of representatives of the legislative assembly each shall be apportioned on the basis of population.

(2) The legislative assembly following each census made by the authority of the United States, shall revise and adjust the apportionment for representatives and senators on the basis of such census.

(3) At such time as the constitution of the United States is amended or interpreted to permit apportionment of one house of a state legislative assembly on factors other than population, the senate of the legislative assembly shall be apportioned on the basis of one senator for each county.

NOTE.—Section 2 of article VI is given as amended by act approved March 9, 1965 (chapter 273, Laws of 1965), adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Sec. 3. Senatorial and representative districts may be altered from time to time as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contignous, and the districts as compact as may be.

NOTE.—Section 3 of article VI is given as amended by act approved March 9, 1965 (chapter 273, Laws of 1965), adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

Secs. 4 to 6.

Repeal

These sections were repealed by chapter 273, Laws of 1965, adopted at the general election of November 8, 1966, effective under governor's proclamation, December 6, 1966.

ARTICLE VII

EXECUTIVE DEPARTMENT

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, attorney general, state treasurer, state auditor and superintendent of public instruction, each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the state shall be admitted into the Union, and shall end on the first Monday of January, A. D. 1893. The officers of the executive department, excepting the lieutenant-governor, shall during their terms of office reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed in this constitution and by the laws of the state. The state treasurer shall not be eligible to his office for the succeeding term.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 2. The officers provided for in section 1 of this article, shall be elected by the qualified electors of the state at the time and place of voting for members of the legislative assembly, and the persons respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the legislative assembly, at its next regular session, shall forthwith by joint ballot, elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

Sec. 3. No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he shall have attained the age of thirty years at the time of his election, nor to the office of secretary of state, state auditor, or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney general unless he shall have attained the age of thirty years, and have been admitted to practice in the supreme court of the state, or territory of Montana, and be in good standing at the time of his election. In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the state or territory two years next preceding his election.

Sec. 4. Until otherwise provided by law, the governor, secretary of state, state auditor, treasurer, attorney general and superintendent of public instruction, shall quarterly, as due, during their continuance in office, receive for their services compensation, which is fixed as follows:

Governor, five thousand dollars per annum;
Secretary of state, three thousand dollars per annum;
Attorney general, three thousand dollars per annum;
State treasurer, three thousand dollars per annum;
State auditor, three thousand dollars per annum;
Superintendent of public instruction, two thousand five hundred dollars per annum.

The lieutenant-governor shall receive the same per diem as may be prescribed by law for the speaker of the legislative assembly, to be allowed only during the sessions of the legislative assembly.

The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive, for the performance of any official duty, any fee for his own use, but all fees fixed by law for the performance by any officer of any official duty, shall be collected in advance, and deposited with the state treasurer quarterly to the credit of the state. No officer mentioned in this section shall be eligible to, or hold any other public office, except member of the state board of education during his term of office.

Cross-Reference

Salaries of state officers, 25-501.

Sec. 5. The supreme executive power of the state shall be vested in the governor, who shall see that the laws are faithfully executed.

Sec. 6. The governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

Sec. 7. The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during a recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of secretary of state, state auditor, state treasurer, attorney-general or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 8. The legislative assembly shall provide for a state examiner, who shall be appointed by the governor and confirmed by the senate. His duty

shall be to examine the accounts of state treasurer, supreme court clerks, district court clerks, and all county treasurers and treasurers of such other public institutions as may be prescribed by law, and shall perform such other duties as the legislative assembly may prescribe. He shall report at least once a year and oftener if required to such officers as may be designated by the legislative assembly. His compensation shall be fixed by law.

Sec. 9. The governor shall have the power to grant pardons, absolute or conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction and judgment for any offenses committed against the criminal laws of the state; Provided, however, That before granting pardons, remitting fines and forfeitures, or commuting punishments, the governor shall be advised concerning the same and that such action has been approved by a board, or a majority thereof, who shall be known as the board of pardons. The legislative assembly shall by law prescribe for the appointment and composition of said board of pardons, its powers and duties; and regulate the proceedings thereof.

NOTE.—Section 9 of article VII is given as amended by act approved February 28, 1953 (chapter 106, Laws of 1953); adopted at the general election of November 2, 1954; effective under governor's proclamation December 7, 1954.

Sec. 10. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or state institution. The governor shall at the beginning of each session, and from time to time, by message, give to the legislative assembly information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall also send to the legislative assembly a statement with vouchers of the expenditures of all moneys belonging to the state and paid out by him. He shall also at the beginning of each session present estimates of the amount of money required to be raised by taxation for all purposes of the state.

Sec. 11. He may on extraordinary occasions convene the legislative assembly by proclamation, stating the purposes for which it is convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the governor, but may provide for the expenses of the session and other matters incidental thereto. He may also by proclamation convene the senate in extraordinary session for the transaction of executive business.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 12. Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the secretary of state.

Sec. 13. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts approved shall become a law, and the item or items disapproved shall be void, unless enacted in the manner following: If the legislative assembly be in session he shall within five days transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

Sec. 14. In case of the failure to qualify, the impeachment or conviction of felony or infamous crime of the governor, or his death, removal from office, resignation, absence from the state, or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall cease, shall devolve upon the lieutenant-governor.

Sec. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided. In case of the absence or disqualification of the lieutenant-governor, from any cause which applies to the governor, or when he shall hold the office of governor, then the president pro tempore of the senate shall perform the duties of the lieutenant-governor until the vacancy is filled or the disability removed.

Sec. 16. In case of the failure to qualify in his office, death, resignation, absence from the state, impeachment, conviction of felony or infamous crime, or disqualification from any cause, of both the governor and the lieutenant-governor, the duties of the governor shall devolve upon the presi-

dent pro tempore of the senate until such disqualification of either the governor or lieutenant-governor be removed, or the vacancy filled, and if the president pro tempore of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 17. The first legislative assembly shall provide a seal for the state, which shall be kept by the secretary of state and used by him officially, and known as the great seal of the state of Montana.

Sec. 18. All grants and commissions shall be in the name and by the authority of the state of Montana, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

Sec. 19. An account shall be kept by the officers of the executive department, and of all public institutions of the state of all moneys received by them, severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath; they shall also, at least twenty days preceding each regular session of the legislative assembly, make full and complete reports of their official transactions to the governor, who shall transmit the same to the legislative assembly.

Sec. 20. The governor, secretary of state and attorney general shall constitute a board of state prison commissioners, which board shall have such supervision of all matters connected with the state prisons as may be prescribed by law. They shall constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claim against the state, except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deem such action necessary for the protection of the moneys of the state.

Sec. 21. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive department of state government and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, and superintendent of public instruction, shall be allocated by law among and within not more than twenty (20) departments by no later than July 1, 1973. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections, or units in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department.

NOTE.—Section 21 of Article VII was added to the constitution by act approved March 17, 1969, (Chapter 1, Ex. Session Laws of 1969); adopted at the general election of November 3, 1970, and effective under the governor's proclamation November 20, 1970.

ARTICLE VIII

JUDICIAL DEPARTMENTS

Section 1. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, in a supreme court, district courts, justices of the peace, and such other inferior courts as the legislative assembly may establish in any incorporated city or town.

SUPREME COURT

Sec. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general supervisory control over all inferior courts, under such regulations and limitations as may be prescribed by law.

Sec. 3. The appellate jurisdiction of the supreme court shall extend to all cases at law and in equity, subject, however, to such limitations and regulations as may be prescribed by law. Said court shall have power in its discretion to issue and to hear and determine writs of habeas corpus, mandamus, quo-warranto, certiorari, prohibition and injunction, and such other original and remedial writs as may be necessary or proper to the complete exercise of its appellate jurisdiction. When a jury is required in the supreme court to determine an issue of fact, said court shall have power to summon such jury in such manner as may be provided by law. Each of the justices of the supreme court shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court of the state, or any judge thereof; and such writs may be heard and determined by the justice or court, or judge, before whom they are made returnable. Each of the justices of the supreme court may also issue and hear and determine writs of certiorari in proceedings for contempt in the district court, and such other writs as he may be authorized by law to issue.

Sec. 4. At least three terms of the supreme court shall be held each year at the seat of government.

Sec. 5. The supreme court shall consist of three justices, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said justices may adjourn the court from day to day, or to a day certain and the legislative assembly shall have the power to increase the number of said justices to not less nor more than five. In case any justice or justices of the supreme court shall be in any way disqualified to sit in a cause brought before such court, the remaining justice or justices shall have power to call on one or more of the district judges of this state as in the particular case may be necessary to constitute the full number of justices of which the said court shall then be composed, to sit with them in the hearing of said cause. In all cases where a district judge is invited to sit and does sit as by this section provided, the decision and opinion of such district judge shall have the same force and effect in any cause heard before the court as if regularly participated in by a justice of the supreme court.

NOTE.—Section 5 as amended by act of March 7, 1899 (Laws 1899, p. 152), effective by proclamation of the governor December 18, 1900. The original constitutional provision was before amended. See Laws of 1897, p. 57 (HB 166).

Sec. 6. The justices of the supreme court shall be elected by the electors of the state at large, as hereinafter provided.

Sec. 7. The term of office of the justices of the supreme court, except as in this constitution otherwise provided, shall be six years.

Sec. 8. There shall be elected at the first general election, provided for by this constitution, one chief justice and two associate justices of the supreme court. At said first election the chief justice shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the associate justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other associate justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said justices, and which one shall be chief justice, shall at the first and all subsequent elections be designated by ballot. After said first election one chief justice or one associate justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the legislative assembly shall increase the number of justices to five, the first terms of office of such additional justices shall be fixed by law in such manner that at least one of the five justices shall be elected every two years. The chief justice shall preside at all sessions of the supreme court, and in case of his absence, the associate justice having the shortest term to serve shall preside in his stead.

Sec. 9. There shall be a clerk of the supreme court, who shall hold his office for the term of six years, except that the clerk first elected shall hold his office only until the general election in the year one thousand eight hundred ninety-two (1892), and until his successor is elected and qualified. He shall be elected by the electors at large of the state, and his compensation shall be fixed by law, and his duties prescribed by law, and by the rules of the supreme court.

Sec. 10. No person shall be eligible to the office of justice of the supreme court, unless he shall have been admitted to practice law in the supreme court of the territory or state of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said territory or state at least two years next preceding his election.

DISTRICT COURTS

Sec. 11. The district courts shall have original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all cases in which the debt, damage, claim or demand, exclusive of interest, or the value of the property in controversy exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce and for annulment of marriage, and for all such special actions and proceedings as are not otherwise provided for. And said courts shall have the power of naturalization, and to issue papers therefor, in all cases where they are authorized so to do by the laws of the United States. They shall have appellate jurisdiction in such cases arising in justices and other

inferior courts in their respective districts as may be prescribed by law and consistent with this constitution. Their process shall extend to all parts of the state, provided that all actions for the recovery of, the possession of, quieting the title to, or for the enforcement of liens upon real property, shall be commenced in the county in which the real property, or any part thereof, affected by such action or actions, is situated. Said courts and the judges thereof shall have power also to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction and other original and remedial writs, and also all writs of habeas corpus on petition by, or on behalf of, any person held in actual custody in their respective districts. Injunctions, writs of prohibition and habeas corpus, may be issued and served on legal holidays and non-judicial days.

Sec. 12. The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court, whose term of office shall be four years, except that the district judges first elected shall hold their offices only until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. Any judge of the district court may hold court for any other district judge, and shall do so when required by law.

Sec. 13. Until otherwise provided by law judicial districts of the state shall be constituted as follows: First district, Lewis and Clark county; second district, Silver Bow county; third district, Deer Lodge county; fourth district, Missoula county; fifth district, Beaverhead, Jefferson and Madison counties; sixth district, Gallatin, Park and Meagher counties; seventh district, Yellowstone, Custer and Dawson counties; eighth district, Choteau, Cascade and Fergus counties.

Sec. 14. The legislative assembly may increase or decrease the number of judges in any judicial district; provided, that there shall be at least one judge in any district established by law; and may divide the state, or any part thereof, into new districts; provided, that each be formed of compact territory and be bounded by county lines, but no changes in the number or boundaries of districts shall work a removal of any judge from office during the term for which he has been elected or appointed.

Sec. 15. Writs of error and appeals shall be allowed from the decisions of said district courts to the supreme court under such regulations as may be prescribed by law.

Sec. 16. No person shall be eligible to the office of judge of the district court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the supreme court of the territory or state of Montana, nor unless he shall have resided in this state or territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

Sec. 17. The district court in each county which is a judicial district by itself shall be always open for the transaction of business, except on legal holidays and non-judicial days. In each district where two or more counties are united, until otherwise provided by law, the judges of such district shall fix the term of court, provided that there shall be at least four terms a year held in each county.

Sec. 18. There shall be a clerk of the district court in each county, who shall be elected by the electors of his county. The clerk shall be elected at the same time and for the same term as the district judge. The duties and compensation of the said clerk shall be as provided by law.

Sec. 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be four years, and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law.

NOTE.—Section 19 of article VIII is given as amended by act approved March 6, 1961 (chapter 164, Laws of 1961), adopted at the general election of November, 1962, effective under governor's proclamation December 17, 1962.

JUSTICES OF THE PEACE

Sec. 20. There shall be elected in each organized township of each county by the electors of such township at least two justices of the peace, who shall hold their offices, except as otherwise provided in this constitution, for the term of two years. Justices' courts shall have such original jurisdiction within their respective counties as may be prescribed by law, except as in this constitution otherwise provided; provided, that they shall not have jurisdiction in any case where the debt, damage, claim or value of the property involved exceeds the sum of three hundred dollars.

Sec. 21. Justices' courts shall not have jurisdiction in any case involving the title or right of possession of real property, nor in cases of divorce, nor for annulment of marriage, nor of cases in equity; nor shall they have power to issue writs of habeas corpus, mandamus, certiorari, quo warranto, injunction, or prohibition, nor the power of naturalization; nor shall they have jurisdiction in cases of felony, except as examining courts; nor shall criminal cases in said courts be prosecuted by indictment; but said courts shall have such jurisdiction in criminal matters, not of the grade of felony, as may be provided by law; and shall also have concurrent jurisdiction with the district courts in cases of forcible entry and unlawful detainer.

Sec. 22. Justices' courts shall always be open for the transaction of business, except on legal holidays and nonjudicial days.

Sec. 23. Appeal shall be allowed from justices' courts, in all cases, to the district courts, in such manner and under such regulations as may be prescribed by law.

POLICE AND MUNICIPAL COURTS

Sec. 24. The legislative assembly shall have power to provide for creating such police and municipal courts and magistrates for cities and towns as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns, respectively; such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

MISCELLANEOUS PROVISIONS

Sec. 25. The supreme and district courts shall be courts of record.

Sec. 26. All laws relating to courts shall be general and of uniform operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

Sec. 27. The style of all process shall be "The State of Montana," and all prosecutions shall be conducted in the name and by the authority of the same.

Sec. 28. There shall be but one form of civil action, and law and equity may be administered in the same action.

Sec. 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary, which shall not be diminished during the terms for which they shall have been respectively elected.

NOTE.—Section 29 of article VIII is given as amended by act approved February 27, 1963 (chapter 92, Laws of 1963), adopted at the general election of November 3, 1964, effective under governor's proclamation December 7, 1964.

Cross-References

Salaries, judges of district courts, 93-303.
Salary, justices of supreme court, 25-501.

Sec. 30. No justice of the supreme court nor judge of the district court shall accept or receive any compensation, fee, allowance, mileage, perquisite or emolument for or on account of his office, in any form whatever, except the salary provided by law.

Sec. 31. No justice or clerk of the supreme court, nor judge or clerk of any district court shall act or practice as an attorney or counsellor at law in any court of this state during his continuance in office.

Sec. 32. The legislative assembly may provide for the publication of decisions and opinions of the supreme court.

Sec. 33. All officers provided for in this article, excepting justices of the supreme court, who shall reside within the state, shall respectively re-

side during their term of office in the district, county, township, precinct, city or town for which they may be elected or appointed.

Sec. 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the state, and vacancies in the offices of county attorney, clerk of the district court, and justices of the peace, shall be filled by appointment, by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until the next general election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.

Sec. 35. No justice of the supreme court or district judge shall hold any other public office while he remains in the office to which he has been elected or appointed.

Sec. 36. A civil action in the district court may be tried by a judge pro tempore, who must be a member of the bar of the state, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and in such case any order, judgment or decree, made or rendered therein by such judge pro tempore, shall have the same force and effect as if made or rendered by the court with the regular judge presiding.

Sec. 37. Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office.

ARTICLE IX

RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE

Section 1. All elections by the people shall be by ballot.

Section 2. Every person of the age of *nineteen (19)* years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people, and, except as hereinafter provided, upon all questions which may be submitted to the vote of the people or electors: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law. If the question submitted concerns the creation of any levy, debt or liability the person, in addition to possessing the qualifications above mentioned, must also be a taxpayer whose name appears upon the last preceding completed assessment roll, in order to entitle him to vote upon such question. Provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned or restored to citizenship by the governor: provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the

adoption of this constitution; provided, that after the expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote.

NOTE.—Section 2 of article IX is given as amended by act approved January 31, 1969 (Chapter 14, Laws of 1969); adopted at the general election of November 3, 1932, and effective under the governor's proclamation November 20, 1970. The original constitutional provision was twice before amended. See chapter 1, Laws of 1913, as approved by the people November 3, 1914; and chapter 101, Laws of 1931, as approved by the people November 8, 1932.

Sec. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the state, or of the United States, nor while engaged in the navigation of the waters of the state, or of the United States, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at the public expense, nor while confined in any public prison.

Sec. 4. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

Sec. 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

Sec. 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed at any military or naval place within the same.

Sec. 7. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state at least one year next before his election or appointment.

Sec. 8. No idiot or insane person shall be entitled to vote at any election in this state.

Sec. 9. The legislative assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

Sec. 10. All persons possessing the qualifications for suffrage prescribed by Section 2 of this article as amended and such other qualifications as the legislative assembly may by law prescribe, shall be eligible to hold the office of county superintendent of schools or any other school district office.

NOTE.—Section 10, article IX, is given as amended by act approved March 7, 1923 (chapter 97, Laws of 1923); adopted at the general election of November 4, 1924; effective under governor's proclamation December 9, 1924.

Sec. 11. Any person qualified to vote at general elections and for state officers in this state, shall be eligible to any office therein except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the legislative assembly for city offices and offices hereafter created.

Sec. 12. Upon all questions submitted to the vote of the taxpayers of the state, or any political division thereof, women who are taxpayers and possessed of the qualifications for the right of suffrage required of men by this constitution, shall equally with men have the right to vote.

Sec. 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes shall be declared elected.

ARTICLE X

STATE INSTITUTIONS AND PUBLIC BUILDINGS

Section 1. Educational, reformatory and penal institutions, and, those for the benefit of the insane, blind, deaf and mute, soldiers' home, and such other institutions as the public good may require, shall be established and supported by the state in such a manner as may be prescribed by law.

Sec. 2. At the general election in the year one thousand eight hundred and ninety-two, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the state, and the majority of all the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be, and is hereby, submitted in like manner to the qualified electors at the next general election thereafter; provided, that until the seat of government shall have been permanently located the temporary seat of government shall be and remain at the city of Helena.

Sec. 3. When the seat of government shall have been located as herein provided the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the state voting on that question at a general election at which the question of the location of the seat of government shall have been submitted by the legislative assembly.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 4. The legislative assembly shall make no appropriations or expenditures for capitol buildings or grounds until the seat of government shall have been permanently located, as herein provided.

Sec. 5. The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.

ARTICLE XI

EDUCATION

Section 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

Sec. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

Sec. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

Sec. 4. The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the state, and the lands granted or which may hereafter be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be prescribed by law.

Sec. 5. Ninety-five per centum (95%) of all the interest received on the school funds of the state, and ninety-five per centum (95%) of all rents received from the leasing of school lands and of all other income from the public school funds shall be apportioned annually to the several school districts of the state in proportion to the number of children and youths between the ages of six (6) and twenty-one (21) residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least six months during the year for which such distribution is made. The remaining five per centum (5%) of all the interest received on the school funds of the state, and the remaining five per centum (5%) of all the rents received from the leasing of school lands and of all other income from the public school funds, shall annually be added to the public school funds of the state and become and forever remain an inseparable and inviolable part thereof.

NOTE.—This section is given as amended by chapter 149, Laws of 1919, approved at election of November 2, 1920, effective under governor's proclamation December 6, 1920.

Sec. 6. It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free common school in each organized district in the state, for at least three months in each year.

Sec. 7. The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years.

Sec. 8. Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

Sec. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

Sec. 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which state or county officers are voted for.

Sec. 11. The general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the governor, state superintendent of public instruction, and attorney general, being members ex-officio; the other eight members thereof shall be appointed by the governor; subject to the confirmation of the senate, under the regulations and restrictions to be provided by law.

Sec. 12. The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

ARTICLE XII

REVENUE AND TAXATION

Section 1. The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.

Sec. 1a. The legislative assembly may levy and collect taxes upon incomes of persons, firms and corporations for the purpose of replacing property taxes. These income taxes may be graduated and progressive and shall be distributed to the public schools and to the state government.

NOTE.—This section was enacted as chapter 83, Laws of 1933, approved by the people at the general election of November 6, 1934, and became effective by governor's proclamation, December 6, 1934.

Sec. 1b. No monies paid into the state treasury which are derived from fees, excises or license taxes relating to registration, operation or use of vehicles on the public highways or to fuels used for the propulsion of such vehicles, except fees and charges paid to the board of railroad commissioners of the state of Montana and the public service commission of Montana or its successor or successors by motor carriers pursuant to law, shall be expended for other than cost of administering laws under which such monies are derived, statutory refunds and adjustments provided therein, payment of highway obligations, cost of construction, reconstruction, maintenance and repair of public highways, roads, streets, and bridges, and expenses authorized by the state legislature for dissemination of public information relating to the public highways, roads, streets and bridges of the state of Montana and the use thereof.

NOTE.—This section was enacted as chapter 239, Laws of 1955, approved by the people at the general election of November 6, 1956, and became effective by governor's proclamation, December 28, 1956.

Sec. 2. The property of the United States, the state, counties, cities, towns, school districts, municipal corporations and public libraries shall be exempt from taxation; and such other property as may be used exclusively for the agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, institutions of purely public charity and evidences of debt secured by mortgages of record upon real or personal property in the state of Montana, may be exempt from taxation.

NOTE.—Section 2 is given as amended by chapter 142, Laws of 1917, adopted at the general election of 1918, effective under governor's proclamation December 28, 1918.

Sec. 3. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.

Sec. 4. The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law invest in the corporate authorities thereof powers to assess and collect taxes for such purposes.

Sec. 5. Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.

Sec. 6. No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of state taxes.

Sec. 7. The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.

Sec. 8. Private property shall not be taken or sold for the corporate debts of public corporations, but the legislative assembly may provide by law for the funding thereof, and shall provide by law for the payment thereof, including all funded debts and obligations, by assessment and taxation of all private property not exempt from taxation within the limits of the territory over which such corporations respectively have authority.

Sec. 9. The rate of taxation on real and personal property for state purposes, except as hereinafter provided, shall never exceed two and one-half mills on each dollar of valuation; and whenever the taxable property of the state shall amount to six hundred million dollars ($600,000,000.00) the rate shall never exceed two (2) mills on each dollar of valuation, unless the proposition to increase such rate, specifying the rate proposed and the time during which the rate shall be levied shall have been submitted to the people at the general election and shall have received a majority of all votes cast for and against it at such election; provided, that in addition to the levy for state purposes above provided for, a special levy in addition may be made on live stock for the purpose of paying bounties on wild animals and for stock inspection, protection and indemnity purposes, as may be prescribed by law, and such special levy shall be made and levied annually in amount not exceeding four mills on the dollar by the state board of equalization, as may be provided by law.

NOTE.—Section 9 is given as amended by act approved February 9, 1909 (Laws of 1909, ch. 4), adopted at the general election of November, 1910, effective under governor's proclamation December 6, 1910.

Sec. 10. All taxes levied for state purposes shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

Sec. 11. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

Sec. 12. No appropriation shall be made nor any expenditures authorized by the legislative assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislative assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war. No appropriation of public moneys shall be made for a longer term than two years.

Sec. 13. The state treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the legislative assembly may require. The legislative assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but notwithstanding any such regulations, the treasurer and his sureties shall in all cases be held responsible therefor.

Sec. 14. The governor, state auditor and state treasurer are hereby constituted a state depository board with full power and authority to designate depositories with which all funds in the hands of the state treasurer shall be deposited, and at such rate of interest as may be prescribed by law. When money shall have been deposited under direction of said depository board and in accordance with the law, the treasurer shall not be liable for loss on account of any such deposit occurring through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud or dishonorable conduct. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by the state treasurer or by any other public officer, shall be deemed a felony, and shall be punished as provided for by law and part of such punishment shall be disqualification to hold any public office.

NOTE.—Section 14 is given as amended by act approved March 6, 1907, (chapter 123, Laws of 1907), and adopted at the general election November, 1908, effective under governor's proclamation December 9, 1908.

Sec. 15. The board of county commissioners of each county shall constitute the county board of equalization. The duties of such board shall be to adjust and equalize the valuation of taxable property within their respective counties, and all such adjustments and equalizations may be supervised, reviewed, changed, increased or decreased by the state board of equalization. The state board of equalization shall be composed of three members who shall be appointed by the governor, by and with the advice and consent

of the senate. A majority of the members of the state board of equalization shall constitute a quorum. The term of office of one of the members first appointed shall end on March 1st, 1925, of another first appointed on March 1st, 1927, and of the third first appointed on March 1st, 1929. Each succeeding member shall hold his office for the term of six years, and until his successor shall have been appointed and qualified. In case of a vacancy the person appointed to fill such vacancy shall hold office for the unexpired term in which the vacancy occurs. The qualifications and salaries of the members of the state board of equalization shall be as provided by law, provided, however, that such members shall be so selected that the board will not be composed of more than two persons who are affiliated with the same political party or organization; provided, further, that each member shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, or engage in any occupation or business interfering or inconsistent with his duties as a member of such board, or serve on or under any committee of any political party or organization, or take part, either directly or indirectly, in any political campaign in the interest of any political party or organization or candidate for office. The state board of equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of the county assessors and county boards of equalization; change, increase, or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property, and between individual taxpayers. Said state board of equalization shall also have such other powers, and perform such other duties relating to taxation as may be prescribed by law.

NOTE.—Section 15 of article XII, is given as amended by act approved March 22, 1921 (chapter 11, Extra. Sess. Laws of 1921); adopted at the general election of November 7, 1922, effective under governor's proclamation December 14, 1922. The original constitutional provision was before amended. See chapter 47, Laws of 1915, as later approved by the people.

Sec. 16. All property shall be assessed in the manner prescribed by law except as is otherwise provided in this constitution. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state shall be assessed by the state board of equalization and the same shall be apportioned to the counties, cities, towns, townships and school districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and school districts.

Sec. 17. The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed.

Sec. 18. The legislative assembly shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XIII

PUBLIC INDEBTEDNESS

Section 1. Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.

Sec. 2. The legislative assembly shall not in any manner create any debt except by law which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars ($100,000) except in case of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.

Sec. 3. All moneys borrowed by or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan.

Sec. 4. The state shall not assume the debt, or any part thereof, of any county, city, town or municipal corporation.

Sec. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars ($10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law.

Sec. 6. No city, town, township, school district or high school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum (5%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to

the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such city, town, township, school district or high school district shall be void; and each school district and each high school district shall have separate and independent bonding capacities within the limitation of this section; provided, however, that the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

NOTE.—Section 6 of article XIII is given as amended by act approved March 7, 1957 (chapter 161, Laws of 1957), adopted at the general election of November 1958, effective under governor's proclamation December 8, 1958. The original constitutional provision was before amended. See chapter 193, Laws of 1949, as later approved by the people.

ARTICLE XIV

MILITARY AFFAIRS

Section 1. The militia of the state of Montana shall consist of all able-bodied male citizens of the state between the ages of eighteen (18) and forty-five (45) years inclusive, except such persons as may be exempted by the laws of the state or of the United States.

Sec. 2. The legislative assembly shall provide by law for the organization, equipment, and discipline of the militia, and shall make rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Sec. 3. The legislative assembly shall provide by law for maintaining the militia, by appropriations from the treasury of the state.

Sec. 4. The legislative assembly shall provide by law for the safe keeping of the public arms, military records, relics and banners of the state.

Sec. 5. When the governor shall, with the consent of the legislative assembly, be out of the state in time of war, at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the state.

ARTICLE XV

CORPORATIONS OTHER THAN MUNICIPAL

Section 1. All existing charters, or grants of special or exclusive privileges, under which the corporations or grantees shall not have organized or commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

Sec. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable,

educational, penal or reformatory corporations as are or may be under the control of the state; but the legislative assembly shall provide by general law for the organization of corporations hereafter to be created; provided, that any such laws shall be subject to future repeal or alteration by the legislative assembly.

Sec. 3. The legislative assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this constitution, or which may be hereafter incorporated, whenever in its opinion it may be injurious to the citizens of the state.

Sec. 4. The legislative assembly shall provide by law that in all elections for directors or trustees of incorporated companies, every stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by him for as many persons as there are directors or trustees to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same prineiple, among as many candidates as he shall think fit, and such directors or trustees shall not be elected in any other manner.

Sec. 5. All railroads shall be public highways, and all railroad, transportation and express companies shall be common carriers and subject to legislative control, and the legislative assembly shall have the power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the state. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this state and to connect at the state line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

Sec. 6. No railroad corporation, express or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises, with any other railroad corporation, express or other transportation company, owning or having under its control a parallel or competing line; neither shall it in any manner unite its business or earnings with the business or earnings of any other railroad corporation; nor shall any officer of sueh railroad, express or other transportation company act as an officer of any other railroad, express, or other transportation company owning or having control of a parallel or competing line.

Sec. 7. All individuals, associations, and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, or transportation, or express company, between persons or places within this state; but excursion or commutation tickets may be issued and sold at special rates, provided such rates are the same to all persons. No railroad or transportation, or express

company shall be allowed to charge, collect, or receive, under penalties which the legislative assembly shall prescribe, any greater charge or toll for the transportation of freight or passengers to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this state. No railroad, express, or transportation company, nor any lessee, manager, or other employee thereof, shall give any preference to any individual, association or corporation, in furnishing cars or motive power, or for the transportation of money or other express matter.

Sec. 8. No railroad, express, or other transportation company, in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

Sec. 9. The right of eminent domain shall never be abridged, nor so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals; and the police powers of the state shall never be abridged, or so construed, as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the state.

Sec. 10. No corporation shall issue stocks or bonds, except for labor done, services performed, or money and property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty days notice given in pursuance of law.

Sec. 11. No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served. And no company or corporation formed under the laws of any other country, state or territory, shall have, or be allowed to exercise, or enjoy within this state any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of the state.

Sec. 12. No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the street or highway proposed to be occupied by such street or other railroad.

Sec. 13. The legislative assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already passed.

Sec. 14. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right

to construct and maintain lines of telegraph or telephone within this state, and connect the same with other lines; and the legislative assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph or telephone company owning or having control of a competing line, or acquire by purchase or otherwise, any other competing line of telegraph or telephone.

Sec. 15. If any railroad, telegraph, telephone, express or other corporation or company organized under any of the laws of this state, shall consolidate, by sale or otherwise, with any railroad, telegraph, telephone, express, or other corporation, organized under any of the laws of any other state or territory of the United States, the same shall not thereby become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state, in all matters that may arise as if said consolidation had not taken place.

Sec. 16. It shall be unlawful for any person, company or corporation to require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of negligence of such person, company or corporation, or the agents or employees thereof; and such contracts shall be absolutely null and void.

Sec. 17. The legislative assembly shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

Sec. 18. The term "corporation," as used in this article, shall be held and construed to include all associations and joint stock companies, having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

Sec. 19. Dues from private corporations shall be secured by such means as may be prescribed by law.

Sec. 20. No incorporation, stock company, person or association of persons in the state of Montana, shall directly, or indirectly, combine or form what is known as a trust, or make any contract with any person, or persons, corporation, or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The legislative assembly shall pass laws for the enforcement thereof by adequate penalties

to the extent, if necessary for that purpose, of the forfeiture of their property and franchises, or in case of foreign corporations, prohibiting them from carrying on business in the state.

ARTICLE XVI

COUNTIES—MUNICIPAL CORPORATIONS AND OFFICES

Section 1. The several counties of the territory of Montana, as they shall exist at the time of the admission of the state into the Union, are hereby declared to be the counties of the state until otherwise established or changed by law.

Sec. 2. The legislative assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 3. In all cases of the establishment of a new county it shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which it is formed, less the ratable proportion of the value of the county buildings and property of the county or counties from which it is formed; provided, that nothing in this section shall prevent the re-adjustment of county lines between existing counties.

Sec. 4. In each county there shall be elected three county commissioners, whose term of office shall be six years; provided that each county in the state of Montana shall be divided into three commissioner districts, to be designated as commissioner districts, numbers one, two and three, respectively.

The board of county commissioners shall in every county in the state of Montana, at their regular session, on the first Monday in May, 1929, or as soon thereafter as convenient or possible, not exceeding sixty days thereafter, meet and by and under the direction of the district court judge or judges of said county, divide their respective counties into three commissioner districts as compact and equal in population and area as possible, and number them respectively, one, two and three, and when such division has been made, there shall be filed in the office of the county clerk and recorder of such county, a certificate designating the metes and bounds of the boundary lines and limits of each of said commissioners districts, which certificate shall be signed by said judge or judges; provided, also that at the first regular session of any newly organized and created county, the said board of county commissioners, by and under the direction of the district court judge or judges of said county, shall divide such new county into commissioner districts as herein provided.

Upon such division, the board of county commissioners shall assign

its members to such districts in the following manner; each member of the said board then in service shall be assigned to the district in which he is residing or the nearest thereto; the senior member of the board in service to be assigned to the commissioner district No. 1, the next member in seniority to be assigned to commissioner district No. 2, and the junior member of the board to be assigned to commissioner district No. 3; provided, that at the first general election of any newly created and organized county, the commissioner for district No. 1, shall be elected for two years, for No. 2, for four years, and for No. 3, for six years, and biennially thereafter there shall be one commissioner elected to take place of the retiring commissioner, who shall hold his office for six years.

That the board of county commissioners by and under the direction of the district court judge or judges of said county, for the purpose of equalizing in population and area such commissioner districts, may change the boundaries of any or all of the commissioner districts in their respective county, by filing in the office of the county clerk and recorder of such county, a certificate signed by said judge or judges designating by metes and bounds the boundary lines of each of said commissioner districts as changed, and such change in any or all the districts in such county, shall become effective from and after filing of such certificate; provided, however, that the boundaries of no commissioner district shall at any time be changed in such a manner as to affect the term of office of any county commissioner who has been elected, and whose term of office has not expired; and provided, further, that no change in the boundaries of any commissioner district shall be made within six months next preceding a general election.

At the general election to be held in 1930, and thereafter at each general election, the member or members of the board to be elected, shall be selected from the residents and electors of the district or districts in which the vacancy occurs, but the election of such member or members of the board shall be submitted to the entire electorate of the county, provided, however, that no one shall be elected as a member of said board, who has not resided in said district for at least two years next preceding the time when he shall become a candidate for said office.

When a vacancy occurs in the board of county commissioners the judge or judges of the judicial district in which the vacancy occurs, shall appoint someone residing in such commissioner district where the vacancy occurs, to fill the office until the next general election when a commissioner shall be elected to fill the unexpired term.

NOTE.—Section 4 of article XVI, is given as amended by act approved March 7, 1927 (chapter 72, Laws of 1927); adopted at the general election of November 6, 1928; effective under governor's proclamation December 8, 1928. The original constitutional provision was before amended. See Laws of 1891, p. 294 (declared void in State ex rel. Woods v. Tooker, 15 M 8, 37 P 840); Laws of 1897, p. 56 (HB 56); and Laws of 1901, p. 208 (HB 55) (identical to Laws of 1897, p. 56).

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 5. There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by section 2 of article IX of this constitution and such other qualifications as may be prescribed by law:

One county clerk who shall be clerk of the board of county commissioners and ex-officio recorder; one sheriff; one treasurer, who shall be collector of the taxes, provided, that the county treasurer, shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid offices, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order.

NOTE.—Section 5 is given as amended by act approved March 12, 1937 (chapter 93, Laws of 1937), and adopted at the general election November 8, 1938, effective under governor's proclamation December 2, 1938. The original constitutional provision was before amended. See chapter 80, Laws of 1933, as later approved by the people.

Sec. 6. The legislative assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 7. The legislative assembly may, by general or special law, provide any plan, kind, manner or form of municipal government for counties, or counties and cities and towns, or cities and towns, and whenever deemed necessary or advisable, may abolish city or town government and unite, consolidate or merge cities and towns and county under one municipal government, and any limitations in this constitution notwithstanding, may designate the name, fix and prescribe the number, designation, terms, qual-

ifications, method of appointment, election or removal of the officers thereof, define their duties and fix penalties for the violation thereof, and fix and define boundaries of the territory so governed, and may provide for the discontinuanee of such form of government when deemed advisable; provided, however, that no form of government permitted in this section shall be adopted or discontinued until after it is submitted to the qualified electors in the territory affected and by them approved.

NOTE.—Section 7 of article XVI was enacted as chapter 113, Laws of 1921; submitted and adopted at the general election of November 7, 1922, and became a law by virtue of governor's proclamation, December 14, 1922.

Sec. 8. Any county or counties in existence on the first day of January, 1935, under the laws of the state of Montana or which may thereafter be created or established thereunder shall not be abandoned, abolished and/or consolidated either in whole or in part or at all with any other county or counties except by a majority vote of the duly qualified electors in each county proposed to be abandoned, abolished and/or consolidated with any other county or counties expressed at a general or special election held under the laws of said state.

NOTE.—Section 8 was added to article XVI by act approved March 11, 1935 (chapter 102, Laws of 1935), and adopted at the general election November 3, 1936, effective under governor's proclamation December 2, 1936.

ARTICLE XVII

PUBLIC LANDS

Section 1. All lands of the state that have been, or that may hereafter be granted to the state by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners, as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three (3) miles of such limits; provided, that any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

Sec. 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under

such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The lands of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year one thousand nine hundred and ten (1910).

Sec. 3. All other public lands may be disposed of in such manner as may be provided by law.

ARTICLE XVIII

LABOR

Section 1. The legislative assembly shall provide for a department of agriculture, and a separate department of labor and industry to be located at the capitol and each of said departments shall be under the control of a separate commissioner who shall be appointed by the governor, subject to the confirmation of the senate. Each commissioner shall hold office for four (4) years, and until his successor is appointed and qualified; the compensation of each commissioner shall be as provided by law. The powers and duties of each commissioner shall be prescribed by the legislature.

NOTE.—Section 1 of article XVIII is given as amended by act approved February 3, 1949 (chapter 6, Laws of 1949); adopted at the general election of November 7, 1950, effective under governor's proclamation December 6, 1950.

Sec. 2. It shall be unlawful for the warden or other officer of any state penitentiary or reformatory institution in the state of Montana, or for any state officer to let by contract to any person or persons or corporation the labor of any convict confined within said institutions.

Sec. 3. It shall be unlawful to employ children under the age of sixteen (16) years of age in underground mines.

NOTE.—Sections three (3) and five (5), of this article, are given as added by act approved March 3, 1903 (chapter 49, Laws of 1903), declared to be in force by proclamation by the governor December 8, 1904.

Sec. 4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided.

NOTE.—Section 4, added by act approved March 3, 1903 (chapter 49, Laws of 1903), is given as amended by act approved March 14, 1935, (chapter 172, Laws of 1935), and adopted at the general election November 3, 1936, effective under governor's proclamation December 2, 1936.

Sec. 5. The legislature by appropriate legislation shall provide for the enforcement of the provisions of this article.

NOTE.—Sections three (3) and five (5), of this article, are given as added by act approved March 3, 1903 (chapter 49, Laws of 1903), declared to be in force by proclamation by the governor December 8, 1904.

ARTICLE XIX

MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS

Section 1. Members of the legislative assembly and all officers, executive, ministerial or judicial, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly, or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

Sec. 2. The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

Sec. 3. The legislative assembly shall enact suitable laws to prevent the destruction by fire from any cause of the grasses and forests upon lands of the state or upon lands of the public domain the control of which may be conferred by congress upon this state, and to otherwise protect the same.

Sec. 4. The legislative assembly shall enact liberal homestead and exemption laws.

Sec. 5. No perpetuities shall be allowed, except for charitable purposes.

Sec. 6. All county officers shall keep their offices at the county seats of their respective counties.

Cross-Reference

Section 46, article V would permit deviation from this section under emergency conditions.

Sec. 7. In the disposition of the public lands granted by the United States to this state, preference shall always be given to actual settlers thereon, and the legislative assembly shall provide by law for carrying this section into effect.

Sec. 8. The legislative assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at

its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The legislative assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the state of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of the members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the legislative assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

Sec. 9. Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one (1) be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately. Not more than three amendments to this constitution shall be submitted at the same election, except that there may be submitted at each of the general elections held in the years 1972, 1974 and 1976, in addition to the three amendments otherwise authorized by this section, an amendment or amendments providing for the reorganization of the executive department of government which may include the revision or repeal of sections of this constitution relating to any boards, offices, and department other than legislative and judicial offices. The reorganization of the executive department is a single subject, and an additional amendment relating to that subject authorized by this section may be submitted to the qualified electors of the state in the form of a title clearly expressing its subject.

NOTE.—Section 9 of Article XIX is given as amended by act approved February 21, 1969 (Chapter 66, Laws of 1969); adopted at the general election of November 3, 1970, and effective under the governors proclamation November 20, 1970.

ARTICLE XX

SCHEDULE

That no inconvenience may arise by reason of changing from a territorial to a state form of government, it is declared as follows:

Section 1. All laws enacted by the legislative assembly of the territory of Montana and in force at the time the state shall be admitted into the Union and not inconsistent with this constitution or the constitution or laws of the United States of America, shall be and remain in full force as the laws of the state until altered or repealed, or until they expire by their own limitation; provided, that whenever in said laws the words "territory," "Montana territory" or "territory of Montana" occur, the words "state" or "state of Montana" shall be appropriately substituted and read therefor; and, provided further, that the duties which now by law devolve upon probate judges as jury commissioners and in relation to issuing marriage licenses and filing and recording marriage certificates, and the duties as ex-officio clerks of their own courts, shall until otherwise provided by law, devolve upon and be performed by the clerks of district courts, in their respective counties; and provided further, that the duties of probate judges now imposed by law relative to town sites and to the approval of bonds of other county officers shall, until otherwise provided by law, be performed by the district judges in the several counties in their respective districts.

Sec. 2. All lawful orders, judgments and decrees in civil causes, all contracts and claims, and all lawful convictions, judgments and sentences in criminal actions, made and entered, or pronounced by the courts within the territory of Montana, and in force at the time the state shall be admitted into the Union, shall continue and be and remain in full force in the state unaffected in any respect by the change from a territorial to a state form of government, and may be enforced and executed under the laws of the state.

Sec. 3. No crime or criminal offense committed against the laws of the territory of Montana shall abate, or be in any wise affected, by reason of the change from a territorial to a state form of government; but the same shall be deemed and taken to be an offense against the laws of the state, and the appropriate courts of the state shall have jurisdiction over and to hear and determine the same; provided, that this section shall not in any wise be construed to change the law of the statute of limitations, or the due effect or application of the same.

Sec. 4. Except as herein otherwise provided, the word "district" shall be substituted and read in lieu of the word "probate" in the terms "probate court" or "probate judge" whenever the same occur in the laws of

the territory of Montana, and all said laws which by their terms apply to probate courts or probate judges shall, except as in this constitution otherwise provided, upon a change from territorial to state government, be deemed and taken to apply to district courts and district judges; provided, that all laws allowing fees to probate judges are hereby repealed.

Sec. 5. Clerks of district courts, until otherwise provided by law, shall each perform the duties and be entitled to the same fees as now provided by law for clerks of the district courts of the territory, and until otherwise provided by law shall also perform the services and be entitled to fees therefor that are now provided for clerks of probate courts.

Sec. 6. Upon a change from territorial to state government the seals in use by the supreme court and the territorial district courts in and for the several counties respectively, shall pass to and become, until otherwise provided by law, the seals respectively of the supreme court and of the district courts of the state in such counties.

Sec. 7. Prosecutions for criminal offenses against the laws of the territory of Montana, pending at the time the state shall be admitted into the Union shall not abate; but the same shall continue and be prosecuted in the name of the state of Montana, and the title of every such action shall be changed to conform to this provision.

Sec. 8. Parties who, at the time of the admission of the state into the Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the territory of Montana, shall continue to be so confined or held until discharged therefrom by the proper courts of the state.

Sec. 9. All writs, processes, prosecutions, actions, causes of action, defenses, claims and rights of individuals, associations and bodies corporate existing at the time the state shall be admitted into the Union, shall continue and be respectively executed, proceeded with, determined, enforced and protected under the laws of the state.

Sec. 10. All undertakings, bonds, obligations and recognizances in force at the time the state shall be admitted into the Union, which were executed to the territory of Montana, or any officer thereof in his official capacity, or to any official board for the benefit of the territory of Montana, are hereby respectively assigned and transferred to the state of Montana, to the state officer successor to said territorial officer, or to the official board successor to the aforesaid official board, for the use of the state, as the case may be, and shall be as valid and binding as if executed under state law to the state, or state officer in his official capacity, or official board, for the benefit of the state; and all fines, taxes, penalties and forfeitures due or owing to the territory of Montana or to any county, school district, or municipality therein, at the time the state shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the state, county, school district or municipality, as the case may be, and payment thereof may be enforced under the laws of the state.

Sec. 11. All property, real and personal, and all moneys, credits, claims, demands and choses in action of every kind, belonging to the territory of Montana at the time the state shall be admitted into the Union, are hereby assigned and transferred to, and shall be vested in, and become the property of the state of Montana.

Sec. 12. All obligations of the territory of Montana, existing, in force and unpaid at the time of the admission of the state into the Union are hereby assumed by the state, which shall and will well and truly pay the same.

Sec. 13. All matters, cases and proceedings pending in any probate court in the territory of Montana, at the time the state shall be admitted into the Union, and all official records, files, moneys, and other property of, or pertaining to such court, are hereby transferred to the district court in and for the same county, and such district court shall have full power and jurisdiction to hear, determine and dispose of all such matters, cases and proceedings.

Sec. 14. All actions, cases and proceedings, and matters which shall be pending in the supreme and district courts of Montana territory at the time of the admission of the state into the Union whereof the United States circuit or district court might have had jurisdiction, had such court existed at the commencement of such actions, cases, proceedings and matters, respectively, shall be transferred to said United States circuit and district courts respectively; and all the files, records, indictments and proceedings relating to such actions, cases, proceedings and matters shall be transferred to said United States courts; provided, that no civil action, cause or proceeding to which the United States is not a party, shall be transferred to either of said United States courts except upon written request of one of the parties thereto and in the absence of such request, such case shall be proceeded with in the proper state courts.

Sec. 15. All actions, cases, proceedings and matters pending in the supreme and district courts of the territory of Montana at the time the state shall be admitted into the Union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred, as may be proper to the supreme and district courts of the state, respectively, and all such actions, cases and matters shall be proceeded with in the proper state courts.

Sec. 16. Upon a change from a territorial to a state government, and until otherwise provided by law, the great seal of the territory shall be deemed and taken to be the great seal of the state of Montana.

Sec. 17. All territorial, county and township officers now occupying their respective positions under the laws of the territory of Montana, or of the United States of America, shall continue and remain in their respective official positions and perform the duties thereof as now provided by law after the state is admitted into the Union, and shall be considered state officers until their successors in office shall be duly elected and qualified, as provided by ordinance, notwithstanding any inconsistent provisions in

this constitution, and shall be entitled to the same compensation for their services as is now established by law; provided, that the compensation for justices of the supreme court, governor and secretary of the territory shall be paid by the state of Montana.

ARTICLE XXI

MONTANA TRUST AND LEGACY FUND

Seetion 1. The state of Montana does hereby agree and covenant to accept from any natural person, or persons, from inside or outside the state, gifts, donations, grants and legacies in any amount or value not less than two hundred fifty ($250.00) dollars each, for the creation of a state permanent revenue fund, for the creation of a state permanent school fund, for the creation of a permanent revenue fund for the university of Montana, and for the benefit of scientific, educational, benevolent and charitable work, subject, however, to all the provisions and limitations of this article.

NOTE.—Article XXI was instituted by act approved March 8, 1923 (chapter 134, Laws of 1923); adopted at the general election of November 4, 1924; effective under governor's proclamation, December 9, 1924.

Sec. 2. The state further agrees and covenants to hold in trust all such contributions (gifts, donations, grants and legacies), to administer the same perpetually, and to apply the net earnings thereof as therein directed, subject, however, to the provisions and limitations of this act.

Sec. 3. The original amounts of all contributions for the state permanent revenue fund, for the state permanent school fund, and for the permanent revenue fund for the university of Montana, shall be added to such funds respectively and become inseparable and inviolable parts thereof. Contributions for other objects may contain a provision to the effect that the net earnings thereof, or part of the net earnings, shall be added to the principal for a certain length of time, or until it has reached a certain amount, or until the happening of a certain event, but such contingent event shall not be more remote than permitted by the laws effecting perpetuities; but no contribution containing such provision as to accumulation shall be accepted by the state until it has been approved by the supervisory board hereinafter constituted, which board shall have power to reject any such contribution that it may deem unwise.

Sec. 4. The state treasurer shall keep a permanent record of all such gifts, donations, grants and legacies, showing the names of the givers, the purpose of the contribution, and other essential facts relating thereto. A duplicate of this record shall be kept by the secretary of state. These records shall be preserved perpetually as a lasting memorial to the givers and their interest in society. The legislative assembly shall from time to time make provision for suitable publicity concerning these benefactors of their fellowmen.

Sec. 5. The same state board and officers that have charge of the investment and administration of the public school fund of the state shall have charge of the investment and administration of all the funds administered under this article. All these funds shall be invested as one common

fund to be known and designated as the Montana trust and legacy fund. In case any contribution is in some other form than cash, such board shall convert it into cash as soon as practicable.

Sec. 6. The public school permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions, subject to investment, shall be invested as parts of the Montana trust and legacy fund; so also all other funds in the custody of any officer or officers of the state, subject to investment, that the legislative assembly may prescribe. The separate existence and identity of each and every fund invested and administered as a part of the Montana trust and legacy fund shall be strictly maintained.

All investments belonging to the public school permanent fund, except investments in state farm mortgage loans, and all investments belonging to the said land grant funds, shall be transferred to the Montana trust and legacy fund at the full amounts of the unpaid balances of such investments.

NOTES.—Sections 6 to 11 are given as amended by act approved March 15, 1937 (chapter 99, Laws of 1937), and adopted at the general election November 8, 1938, effective by governor's proclamation December 2, 1938.

This section and section 9, article XXI declared unconstitutional and contrary to provisions of enabling act by attorney general. Attorney General's Opinions, Vol. 18, No. 11. But see Attorney General's Opinions, Vol. 20, No. 109.

Sec. 7. The state shall accept for investment and administration as parts of the Montana trust and legacy fund, sinking funds, permanent funds, cumulative funds and trust funds belonging to or in the custody of any of the political subdivisions of the state when requested to do so by the governing board of such political subdivision, subject, however, to such limitations as the legislative assembly may prescribe. The legislative assembly may provide for the investment and administration as a part of the Montana trust and legacy fund of any other fund subject to its power.

NOTE.—See note to section 6 of this article.

Sec. 8. The Montana trust and legacy fund shall be safely and conservatively invested in public securities within the state, as far as possible, including school district, county and municipal bonds, and bonds of the state of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and interest, and federal land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest. In making long term investments preference shall be given to securities payable on the amortization plan or serially. The legislative assembly may provide additional regulations and limitations for all investments from the Montana trust and legacy fund.

All existing constitutional guarantees against loss or diversion applying to the public school fund, to the funds of the state university and to the

funds of all other state institutions of learning, shall remain in full force and effect.

NOTE.—See note to section 6 of this article.

Sec. 9. On the last day of March, of June, of September and of December of each year, the state treasurer shall apportion all interest collected for the Montana trust and legacy fund during the three month period then terminating to all the separate and integral funds which constitute such fund on the day of such apportionment and which constituted parts of the fund on the first day of the three month period then terminating. The basis of apportionment shall be the average amount of each such fund between the first day and the last day of the three month period.

NOTE.—See notes to section 6 of this article.

Sec. 10. The state treasurer shall keep all deposits of money belonging to the Montana trust and legacy fund separate and distinct from other deposits of money in his keeping.

NOTE.—See note to section 6 of this article.

Sec. 11. All money in any of the separate and integral funds constituting the Montana trust and legacy fund and the interest apportioned therefrom, shall be subject to payment to the person, institution or other entity entitled thereto, without appropriation by the legislative assembly, upon proper authorization as provided by law.

NOTE.—See note to section 6 of this article.

Sec. 12. All the net earnings accruing to the state permanent revenue fund shall annually be added thereto until it has reached the sum of one hundred million dollars ($100,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths of the net earnings shall be used for the general expenses of the state.

Sec. 13. All the net earnings accruing to the state permanent school fund shall annually be added thereto until it has reached the sum of five hundred million dollars ($500,000,000.00). Thereafter only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall annually be apportioned to the school districts of the state on the basis of the aggregate actual school attendance in each district during the preceding school or calendar year by persons between the ages of six and eighteen years and shall be used exclusively for educational purposes, subject to such regulations and limitations as may be prescribed by law.

Sec. 14. All the net earnings accruing to the permanent revenue fund for the university of Montana shall annually be added thereto until it has reached the sum of one hundred million dollars ($100,000,000.00). There-

after only one twentieth of the annual net earnings shall be added to the fund itself, and the remaining nineteen twentieths shall be apportioned to all the educational institutions then comprising the university of Montana, on the basis of the aggregate actual attendance in each institution during the preceding school or calendar year, and may be used for all purposes properly connected with the work of these institutions, subject, however, to such regulations and limitations as may be prescribed by law.

Sec. 15. Whenever the purpose for which a certain contribution was made has been accomplished, or can no longer be ascertained or followed, then the total amount of such fund shall be transferred to the state permanent school fund and become a permanent and inviolable part thereof. All contributions without a specified purpose shall be credited to the state permanent school fund.

Sec. 16. Should the time ever come when any of the three aforesaid permanent funds become so large that no further increase is necessary or desirable, then, in such case, the legislative assembly shall have power to provide for the use of all of the net income from such fund for the purpose for which it was created, or it may use the one twentieth of the annual net income which was to be added to the fund itself for the creation of other permanent revenue funds, or for any other public purpose that it may deem wise; provided, however, that none of the foregoing provisions of this section shall apply to any of these funds until it has reached the specific amount fixed by this article.

Sec. 17. The justices of the supreme court of the state of Montana are hereby made and constituted a supervisory board over the entire administration of all the funds created or authorized by this article and the income therefrom. During January of each year, this board shall review the administration for the preceding year. It shall decide all uncertain or disputed points arising in the administration of the funds whenever requested to do so by a beneficiary, by a state official charged with some part of the administration of the fund, or any other interested party; and it may do so upon its own initiative. It shall be the duty of the supervisory board to do and perform all acts and things that it may deem necessary in order to cause the board and officers having direct charge of these funds to administer the same carefully and wisely in full compliance with the provisions of this article and such further legislation as may be enacted relating thereto. The clerk of the supreme court shall be ex-officio clerk of this supervisory board.

Sec. 18. The legislative assembly shall from time to time enact such further legislation as it may deem necessary to carry into effect the provisions of this article.

Done in open convention at the city of Helena, in the territory of Montana, this seventeenth day of August, in the year of our Lord one thousand eight hundred and eighty-nine.

William A. Clark,[1] president,
E. D. Aiken,[2]
Walter M. Bickford,[3]
J. F. Brazelton,[4]
Peter Breen,[5]
David G. Browne,[6]
Simon R. Buford.[7]
William Mason Bullard,[8]
Walter A. Burleigh,[9]
Alex F. Burns,[10]
Andrew J. Burns,[11]
Edward Burns,[12]
James E. Callaway,[13]
Edward Cardwell,[14]
B. Platt Carpenter.[15]
Milton Cauby,[16]
William A. Chessman,[17]
Timothy E. Collins,[18]
Charles E. Conrad,[19]
Walter Cooper,[20]
Thomas F. Courtney,[21]
Arthur J. Craven,[22]
W. W. Dixon,[23]
D. M. Durfee,[73]
William Dyer,[24]
George O. Eaton,[25]
William T. Field,
J. E. Gaylord,[26]
Paris Gibson,[27]
Warren C. Gillette,[28]
O. F. Goddard,[74]
Fielding L. Graves,[29]
R. E. Hammond,[30]
Charles S. Hartman,[31]
Henri J. Haskell,[32]
Luke D. Hatch,[33]
Lewis H. Hershfield,[34]
Richard O. Hickman,[35]
S. S. Hobson,[36]
Joseph Hogan,[37]
Thomas Joyes,[38]
Allen R. Joy,[72]
J. E. Kanouse,[71]
W. J. Kennedy,[39]
H. Knippenberg,[40]
Hiram Knowles,[41]
Conrad Kohrs,[42]
C. H. Loud,[43]
Llewellyn A. Luce,[44]
Martin Maginnis,[45]
J. E. Marion,[46]
Charles S. Marshall,[47]
Wm. Mayger,[48]
P. W. McAdow,[49]
C. R. Middleton,[50]
Samuel Mitchell,[51]
William Muth,[52]
Alfred Myers,[53]
William Parberry,[54]
W. R. Ramsdell,[55]
G. J. Reek,[56]
John C. Robinson,[57]
L. Rotwitt,[58]
J. E. Rickards,[59]
Frances E. Sargeant,[60]
Leopold F. Schmidt,[61]
George W. Stapleton,[62]
Joseph K. Toole,[63]
J. R. Toole,[64]
Charles S. Warren,[65]
William H. Watson,[66]
Chas. M. Webster,[67]
H. R. Whitehill,[68]
George B. Winston,[70]
Aaron C. Witter,[69]

NOTE.—

1—Died March 2, 1925.
2—Died April 22, 1900.
3—Died June 27, 1932.
4—Died December 19, 1917.
5—Died October 2, 1920.
6—Died December 10, 1919.
7—Died January 15, 1905.
8—Died April 23, 1900.
9—Died March 7, 1896.
10—Died May 27, 1908.
11—Died November 26, 1893.
12—Deceased.
13—Died August 21, 1905.
14—Died May 4, 1912.
15—Died December 24, 1921.
16—Died February 18, 1926.
17—Died October 3, 1920.
18—Died August 30, 1908.
19—Died November 27, 1902.
20—Died April 29, 1924.
21—Died March 4, 1901.
22—Died April 2, 1925.
23—Died November 13, 1910.
24—Died November 17, 1911.
25—Died September 12, 1930.
26—Died July 23, 1920.
27—Died December 16, 1920.
28—Died September 8, 1912.
29—Died December 27, 1913.
30—Died November 11, 1931.
31—Died August 3, 1929.
32—Died March 5, 1921.
33—Died January 7, 1920.
34—Died December 4, 1910.
35—Died July 20, 1895.
36—Died April 26, 1922.
37—Died May 27, 1900.
38—Died June 4, 1893.
39—Died August 26, 1920.
40—Died April 16, 1924.
41—Died April 6, 1911.
42—Died July 23, 1920.
43—Died October 23, 1935.
44—Died January 4, 1903.
45—Died March 27, 1919.
46—Died September 27, 1901.
47—Died November 13, 1896.
48—Died January 19, 1919.
49—Died July 12, 1918.
50—Died May 19, 1926.
51—Died February 3, 1903.
52—Died February 15, 1925.
53—Died June 1, 1920.
54—Died October 12, 1902.
55—Died March 13, 1931.
56—Died July 27, 1897.
57—Died December 5, 1897.
58—Died December 6, 1910.
59—Died December 26, 1927.
60—Died December 6, 1927.
61—Died September 24, 1914.
62—Died April 25, 1910.
63—Died March 11, 1929.
64—Died March 4, 1916.
65—Died April 13, 1921.
66—Died August 17, 1894.
67—Died May 7, 1909.
68—Died June 11, 1905.
69—Died January 31, 1891.
70—Died August 17, 1936.
71—Died September 21, 1937.
72—Died March 14, 1939.
73—Died April 29, 1942.
74—Died September 25, 1943.

ORDINANCE NO. I

FEDERAL RELATIONS

BE IT ORDAINED: First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of the state of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

Second. That the people inhabiting the said proposed state of Montana, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United

States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States, that the lands belonging to citizens of the United States, residing without the said state of Montana, shall never be taxed a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said state of Montana on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said state of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by said state of Montana so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territory of Montana shall be assumed and paid by said state of Montana.

Fourth. That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said state of Montana and free from sectarian control.

Fifth. That on behalf of the people of Montana, we in convention assembled, do adopt the constitution of the United States.

Sixth. That the ordinances in this article shall be irrevocable without the consent of the United States and the people of said state of Montana.

Seventh. The state hereby accepts the several grants of land from the United States to the state of Montana, mentioned in an act of congress, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington, to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states." Approved February 22, 1889, upon the terms and conditions therein provided.

ORDINANCE II

ELECTIONS

Be it Ordained by the Convention assembled to form a Constitution for the State of Montana:

First. That an election shall be held throughout the territory of Montana on the first Tuesday of October, 1889, for the ratification or rejection of the constitution framed and adopted by this convention.

Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this territory, shall be qualified to vote for the ratification or rejection thereof.

Third. Said elections shall be held at the several polling places and precincts throughout the territory appointed for the holding of elections under the laws of the territory, and shall be conducted in the manner prescribed by the laws of the territory regulating elections. The boards of county commissioners of the several counties of the territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the territory.

Fourth. Each elector voting at said election shall have written or printed upon the ticket he may deposit in the ballot box, the words "for the constitution" or "against the constitution."

Fifth. The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner, if the returns from all of the precincts shall have been received and in the manner prescribed by the laws of the territory of Montana for canvassing the votes at general elections in said territory, and the returns of said election shall be made to the secretary of the territory, who with the governor, and the chief justice of the territory, or any two of them shall constitute a board of canvassers who shall meet at the office of the secretary of the territory on, or before, the thirtieth day after the election, and canvass the votes so cast and declare the result.

Sixth. That on the first Tuesday in October, 1889, there shall be elected by the qualified electors of Montana, a governor, a lieutenant-governor, a secretary of state, an attorney general, a state treasurer, a state auditor, a state superintendent of public instruction, one chief justice, and two associate justices of the supreme court, a judge for each of the judicial districts established by this constitution, a clerk of the supreme court, and a clerk of the district court in and for each county of the state, and the members of the legislative assembly provided for in this constitution. The terms of officers so elected shall begin when the state shall be admitted into the Union and shall end on the first Monday in January, 1893, except as otherwise provided.

Seventh. There shall be elected at the same time one representative in the fifty-first congress of the United States.

Eighth. The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the ter-

ritory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to the clerk of the district court.

Ninth. There shall also be elected at the same time the following county and township officers: Three county commissioners, one clerk of the board of county commissioners and ex-officio recorder, one sheriff, one county treasurer, one county superintendent of common schools, one county surveyor, one county assessor, one coroner, one public administrator, one county attorney, two justices of the peace, and two constables for each township. The terms of office for the above named officers shall begin upon the admission of the state and end upon the first Monday of January, A. D. 1893, except as to county treasurer, whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also as to county commissioners, whose terms are otherwise provided for in this constitution.

Tenth. The votes for the above county and township officers and for clerk of the district court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

Eleventh. Notice of the election for the adoption or rejection of this constitution, and for state, district, county and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

Twelfth. That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

NOTE.—Except where otherwise indicated all sections of the constitution were adopted by the constitutional convention, August 17, 1889, and ratified by the people October 1, 1889.

ritory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to the clerk of the district court.

Ninth. There shall also be elected at the same time the following county and township officers: Three county commissioners, one clerk of the board of county commissioners and ex-officio recorder, one sheriff, one county treasurer, one county superintendent of common schools, one county surveyor, one county assessor, one coroner, one public administrator, one county attorney, two justices of the peace, and two constables for each township. The terms of office for the above named officers shall begin upon the admission of the state and end upon the first Monday of January, A. D. 1893, except as to county treasurer, whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also as to county commissioners, whose terms are otherwise provided for in this constitution.

Tenth. The votes for the above county and township officers and for clerk of the district court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

Eleventh. Notice of the election for the adoption or rejection of this constitution, and for state, district, county and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

Twelfth. That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

NOTE.—Except where otherwise indicated all sections of the constitution were adopted by the constitutional convention, August 17, 1889, and ratified by the people October 1, 1889.

15

TITLE: "The Montana Constitution: A View of Nineteenth Century Roots"
AUTHOR: Margery H. Brown
NOTE: Printed below and on the following pages is the text of a speech delivered by Mrs. Brown on November 27, 1971 in Helena at the orientation session of delegates-elect to the 1971-72 Montana Constitutional Convention. Mrs. Brown, who served on the Montana Constitution Revision Commission and the Montana Constitutional Convention Commission, is a doctoral candidate in history at the University of Montana. The remarks in her speech stem from research-in-progress for a dissertation on the development of the Montana Constitution, 1864-1889.

It is clearly a privilege to speak of history to this historic assemblage. I do so with the earnest disclaimer that these remarks do not constitute even the most foreshortened constitutional history of Montana. At best they express one viewpoint of some of the characteristics of that history, with emphasis on the nineteenth century. It is a view that is less formed than forming, and one that sees no single force in the development of the Montana constitution, but rather, the entwining of many strands.

In the nineteenth century these strands can be traced to two principal roots: the ideas and practices accumulated by Montanans before they came to Montana and the ideas and practices that grew out of their own efforts to make their territory work effectively.

They had an unusually long experience with territorial government--stretching to a full quarter century--and in the growth of American constitutional theory, it was a significant quarter century: the period of the post-Civil War amendments to the national constitution, the period of the growth of corporate strength and influence, the period of industrialization, of the transcontinental expansion of the transportation network, and the consequence nationalization of commerce.

Constitutionally, Montana territory, 1886-1889, was a unit of the national domain over which Congress had municipal authority, with only such privileges of self-government as Congress chose to grant.

There has never been the shadow of a doubt that Montanans were restless with this arrangement, almost from its commencement, and Montana's editors, her congressional delegates, memorialists within and without the territorial legislature defined and redefined the frustrations of territorial status with considerable eloquence and minimal restraint. Here is Delegate Martin Maginnis addressing the United States House of Representatives in 1884:

> The present territorial system. . .is the most infamous system of colonial government that was ever seen on the face of the globe. . .The territories are the colonies of your Republic, situated three thousand miles away from Washington by land, as the thirteen colonies were situated three thousand miles away from London by water. And it is a strange thing that the fathers of our Republic. . .established a colonial government as much worse than that which they revolted against as one form of such government can be worse than another.

And here is Delegate Joseph K. Toole in 1889 in a "recital of wrongs" in congressional management of the territories. I choose from two dozen or more of the grievances cited by Toole:

> Congress had regulated the number of Montana's judges, grossly inadequate in every instance.
>
> It had arbitrarily fixed the time when the legislature should meet and adjourn, to Montanans' great damage and inconvenience.
>
> It had bound the territory hand and foot by a law which restricted growing and ambitious communities in the expenditure of money for public improvements.
>
> It had manifested a lack of confidence in other instances of legislation too numerous to mention.
>
> Montana was twenty-four years old, out of debt, of sound integrity, and ready to put aside the restraints of territorial pupilage and assume a more important place in the future.

If the nation had a course in territorial affairs, that course was characterized by diffused and loose management. Congress delegated some of its territorial supervision to the President, parceled out other areas among three executive departments, and kept only a sporadic overview of territorial affairs. The system has been termed "ineffective rather than either tyrannical or generously moderate,"[1] and we know that it permitted the exercise of a substantial degree of self government.

Congress gave Montana its territorial constitution in the Organic Act of 1864, its subsequent amendments, and later legislation, some of it specifically concerned with Montana affairs, some of it applicable to other territories as well. The framework is well known: the President with the consent of the United States Senate named a governor, a secretary, a chief justice, two justices, a marshal, and an attorney, all for four-year terms. Montanans elected members of a two-house legislature and a delegate to the United States House of Representatives, who could speak, serve on committees, but who could not vote.

Both houses of the territorial legislature were always apportioned by territorial law on the basis of population. Congress, however, decreed the legislature's size and limited its sessions and funds.

Within the framework, the legislature had broad powers--extending to all rightful subjects of legislation consistent with the United States Constitution and federal laws, with only minimal specific prohibitions and restrictions. There was provision for the exercise of the veto by the appointed governor (who had to bestir himself to use it, since he had only three days in which to consider bills), but his veto could be overridden.

Notably there was the possibility of congressional annulment, a curb used sharply in 1867 when all of the laws of two contested sessions of 1866 were declared invalid. But annulment was the exception, not the rule. Through the years, the accumulated laws of Montana Territory grew apace, and with them, the range of Montana's management of internal affairs. There were compilations authorized in 1879 and 1887, and on the eve of statehood, the legislature named a code commission headed by four-term territorial Chief Justice Decius S. Wade. Its work--reflecting the transition of statehood and laws enacted by the first session of the state legislature--resulted in the substantial *Codes and Statutes of Montana of 1895.*

These territorial laws worked an influence on constitution writing in Montana when statutory matter (most famously, the mines tax exemption) was elevated to constitutional provision. Congressional acts, too, may have presaged constitutional detail. For instance, as early as 1867, an act of Congress stipulated that territories could only use general acts to permit incorporation of persons associated in mining, manufacturing, and other industrial pursuits. And it was Congress--in 1886--borrowing from 30 years experience in states in the East and Midwest--which prohibited territories to pass special laws in a listing bearing close resemblance to the similar section of the Montana legislative article.

A legislature that began life with an upper house of seven members and a lower house of thirteen, meeting in annual 40-day sessions, was later redrawn by Congress, which in 1868 decreed biennial sessions, limiting them to 40 days in 1873, extending them to 60 days in 1880, and in 1878 standardizing all territorial legislatures at twelve-member councils and twenty-four-member lower houses.

Ill-fitted to Montana's geographic expanse was the court system, in which the chief justice and two justices not only constituted the territorial supreme court, but also presided over the territory's three judicial districts. As late as 1886, these justices were hearing on appeal cases one of them had tried at the lower level. Long-sought relief came that year in the appointment of a fourth justice and provision for a justice's disqualification if he had heard a case earlier when it came to the Supreme Court on appeal. The Organic Act also provided for county probate courts and for justices of the peace.

Peaceful government? Nonpartisan government? Not in the least. Examples abound. Presidential appointments came with few exceptions from afar, almost always as rewards for partisan service performed elsewhere. For most of the territorial period, Republicans were in the ascendancy in Washington, and Democrats dominated in Montana. Few executive and judicial officers sent to Montana were acquainted with western problems. Their salaries were low, their absences frequent, their terms brief. Nine governors served in Montana during the 25-year period, but since able Benjamin Potts (who supplemented his income by raising sheep) was governor for twelve of those years, the average for the other eight gentlemen was about one and two-thirds years. No other governor served out a full term; two were removed; five resigned. In the same period thirteen secretaries served in Montana. There was, however, greater stability on the bench.[2]

Warfare could be direct. In the early years the legislature supplemented the federal salaries paid the governor and the justices, but withdrew these allowances when clashes developed. Finally Congress curbed that practice in 1873. The legislature at first had the authority to establish judicial districts and to assign judges to them, until it sagebrushed two judges in 1867 as retribution for their part in annulling the work of the 1866 sessions. Congress responded by making judicial assignments and districting a matter for the judges themselves to decide.

There was full-scale warfare between the legislature and James M. Ashley when that radical Republican was sent out to Montana in 1869, and government nearly stalled when the legislature tried to clip Ashley's authority to appoint other territorial officers. Removed by President Grant in less than a year, Ashley could only complain that he had scarcely unpacked his furniture before his governorship was over.

The federal government paid the salaries and expenses of executive and judicial officers appointed by the President, the $4 per diem for legislators, fixed legislative costs, which permitted hiring a small staff, and a limited amount for printing. Overall in the nation, federal responsibility for costs amounted to one-tenth of territorial budgets. These costs, however, were fixed, and perhaps best known. Those paid by territorial taxes were always subject to expansion. All-important in the early stages of territorial government, the federal appropriation has been characterized as "small enough to be a chronic grievance, but large enough to be a persistent deterrent to movements for statehood."[3]

As with a good many other matters, when one turns from the general to the particular, the rejoinder becomes: "Not so, in Montana."

One's mind moves back to Montana Territory in the spring of 1866 when a legislature was in session in Virginia City and an irregular 55-member constitutional convention was deliberating in Helena, both proclaimed into life on fragile legal grounds by Acting Governor Thomas Francis Meagher.

How important those events were in the flow of Montana constitutional history is a matter of conjecture. Probably the convention's work, undertaken for a two-year-old territory with (at the most) 20,000 inhabitants, was always doomed. There has been a large amount of comic relief provided by the affair: the constitution supposedly misplaced on its way to St. Louis for printing, the intense and open partisanship, the derision of the press of the day. But if one is looking for constitutional strands, people are important, and three of the 1866 framers--Washington J. McCormick, Elihu B. Waterbury, and W. Y. Pemberton--reappeared in constitutional convention ranks in 1884. State of mind is worth consideration, and the early airing of the desirability for statehood attendant on the events of 1866 probably contributed to Montana's persistence in its drive for statehood.

Press reports tell us that the 1866 constitution, prepared in a startlingly brief six-day period, was largely borrowed from the constitution proposed for Colorado in 1865. That territory had another 11 years to await admission under a redrawn 1876 constitution, and all of that later development would have much to say for Montana's constitutional history. In 1865 Colorado's constitutional writers borrowed chiefly from the Kansas constitution of 1859. The date is of note, because the time was still in advance of the period in which state constitutions began to grow enormously in length. The Kansas document--and presumably the suggested Montana constitution of 1866--was about one-third as long as the present Motnana constitution. Although all of the detail was much shorter, and restrictions far fewer, the contours of governmental structure were familiar: a plural executive elected for two-year terms, a bicameral legislature which could meet annually, a four-tier judicial system. There was, however, only a brief five-section article on corporations, no listing at all of prohibited special legislative acts, and in matters of finance, the debt limit was set at $1 million, unless electors approved additional expenditures. Colorado had reshaped the Kansas finance section to include an exemption of mines and mining claims from taxation and would do the same in 1876, with a 10-year limitation on the special privilege.[4]

Meagher had both summoned and apportioned the 1866 convention and his detractors noted that "a body called Congress, it is generally believed, has something to say in this matter."[5] Theoretically the criticism was sound, but the history of admissions of states into the Union was always punctuated by irregularity. Tennessee had had its Governor Blount who plunged ahead as Meagher had done: convening, apportioning, serving as convention president, being elected senator-elect, pleading his cause at the nation's capital, and watching Tennessee become a state through the process in 1796.[6]

By the 1830s there was a United States Attorney General's ruling that a congressional Enabling Act was necessary as a step to write a constitution and to petition for statehood, but the ruling was on occasion ignored. However, western territories came to believe, with cause, that their drives for statehood were always bolstered by the machinery of a congressional Enabling Act. Montana sought that legislation in a formal memorial from the territorial legislature April 13, 1866, one day before the adjournment of the convention of that spring, and at least twice in the ensuing eight years. In 1870 the territorial legislature named a constitutional convention committee, and authorized it to proceed with convention arrangements, but there is no trace of any further development at that time.

In 1883 the Montana territorial legislature acted on its own, and passed a House Joint Resolution (which Governor Crosby signed) providing for the 1884 constitutional convention. It provided for a convention of 45 members to assemble in Helena January 14, 1884. Its members were to receive 20 cents a mile in traveling to and from the capital and there was provision to pay out of territorial funds printing and staff costs and whatever compensation the convention might set for its officers. The convention was to adopt its own rules, refer its work to territorial electors, and if they approved, the constitution was to be submitted to Congress with a memorial praying for admission.

That act of the Montana territorial legislature commenced the most crucial five years of Montana constitutional development: the assembling of the 1884 convention, the drafting and approval of a proposed constitution, the delay in congressional willingness to admit new states, then long-awaited success in 1889.

I have sometimes thought that the members named to devise the rules for the 1884 convention surely must be counted one of Montana's most influential bodies. The committee was headed by Andrew F. Burleigh, a young attorney who had come to Miles City after spending his early years in Dakota Territory and studying law at the University of Iowa. The recommendations of his committee emcompassed 43 rules that set the procedure for the convention. Rule Number 41 established six committees for administrative and editing tasks and 16 standing committees to frame separate constitutional articles, thereby in some measure outlining constitutional content.

We are still learning about the day-by-day work of that convention--chiefly of the actions it took in the committee of the whole and in full convention. We know its deliberations were orderly and generally harmonious, heavily dependent on committee work and proposals, but we do not know very much--and we should--about the course of deliberations in those committees. We've long known that a reasonably carefully constructed constitution was the result of the convention's labor, that it bore marked resemblance to other state constitutions of the period, that Montanans approved it, and that Congress ignored it -- at least for four years.

For a time in 1888-89, there was the strong possibility that Congress might admit Montana under the 1884 constitution--in the same way that South Dakota was accorded the right to reapprove a constitution drafted at Sioux Falls in 1885. But the compromise legislation that became the Omnibus Bill of February, 1889, authorized and required Montana to call a new convention, under detailed instructions and requirements.[7]

The *model constitution* for your predecessors, convening in Helena July 4, 1889, was the Montana Constitution of 1884. The rules drawn that earlier year were readopted with only limited change: prayer by a chaplain was added to the order of business in 1889 and the procedure for reconsideration was authorized. A tie vote was decreed lost and printing arrangements (which had prompted a partisan clash in 1884) were more explicitly explained. Committees were enlarged to accommodate the 75 members of the 1889 convention, and added was a committee on labor.

Continuity in convention leadership was pronounced. William Andrews Clark stepped into his second convention presidency and six veterans of 1884 not only returned to convention ranks in 1889, but also headed standing committees. They were:

William W. Dixon, a New York-born Butte attorney who had come to Montana in 1866 after experience in law in the Dakotas, Nevada and California. Dixon was chairman of the judiciary committee in both conventions.

Timothy E. Collins, who represented Chouteau County in 1884 and Cascade County in 1889. Irish-born, Collins was a banker and lawyer with mining and stock-raising interests. He served as chairman of the finance committee in both conventions.

James E. Callaway, former territorial secretary who was a respected Virginia City attorney. Kentucky was his birthplace. He headed the apportionment committee in 1884 and the committee on boundaries and lands in 1889 and was a member of the judiciary committee in both conventions.

Walter Cooper of Bozeman represented the first judicial district in 1884 and Gallatin County in 1889. A native of New York, he had come to Montana in 1864. He had prospected in Alder Gulch, freighted there and in Fort Benton, was a merchant and land developer. He headed the committee on suffrage in 1884 and that on apportionment in 1889.

George O. Eaton represented Gallatin County in 1884 and Park County in 1889. Born in Maine, Eaton was a West Point graduate who had come to Montana as a cavalry officer, and then turned to ranching and mining in the Cooke City area. He was a member of the finance committee in 1884 and chairman of the committee on military affairs in 1889, serving also in the 1889 convention on the committees on corporations and mining and mining rights.

Joseph K. Toole, Missouri born Helena attorney who had come to Montana in 1869 to serve as county attorney, territorial delegate and become a prime mover in the statehood movement. He would be the state's first governor. In 1884 he served as a member of the committees on the judiciary and the Bill of Rights; in 1889 he chaired the committee on the legislature and served on the judiciary committee.

In both conventions, Joseph K. Toole headed the committee that prepared *An Address to the People*, designed to explain the completed constitutions. In framing the address in 1884, Toole and his committee members stated forthrightly:

> While it may appear that some legislation has crept into our work, yet it must not be forgotten that experience has demonstrated the fact that the wide demands of state require certain, and perhaps manifold restrictions, upon legislative bodies, and the only way to reach them is to embody such restrictions in the Constitution itself.

The 1889 address stated that the proposed constitution was "similar in all its fundamental provisions to the constitution of 1884, which was ratified by a large majority, yet it was thought that the revised judiciary system was better suited to the wants and interests of the people."

These remarks turn now, briefly, to those fundamental provisions--from the standpoint of the major differences between the 1884 and the 1889 constitutions. Any comparison, however, should be prefaced by the acknowledgment that section after section of the earlier document was readopted in unchanged form. From a textual study has come the estimate of approximately a 90 percent carryover of constitutional content.

Legislative sessions were increased from 40 to 60 days in the new constitution. There were a few additions to the prohibited list of special acts. In apportionment, the 1884 constitution had stipulated that there should be at least one senator from each county. The legislature had been left free to devise future apportionments and to determine the size of each house as long as the combined membership of the two houses did not exceed 100 before 1900 and as long as the ratio of 21 senators to 45 representatives was maintained. Until otherwise set by law, the legislature devised by the convention of 1889 was to be composed of a Senate of 16 members and a House of Representatives of 55 members, and an overriding fact of Montana's history, 1889-1965, was the new restriction stipulating only one senator from each county.

Executive terms were extended from two to four years in the 1889 constitution. Initial salaries set in constitutional text were raised (the governor from $3,600 to $5,000 and other executive officials from $2,000 to $3,000). Further attempts to ring round public funds were evident: the state treasurer was made ineligible for a succeeding term; the office and duties of a state examiner were new; there was inserted the procedure to suspend the treasurer temporarily if necessary to protect state funds.

In the article on the judiciary, the greatest change, 1884-1889, was the elimination of the county courts and the transfer of their probate responsibilities to the district courts, an abolition and transfer that the 1884 constitution had empowered the legislature to carry out if it chose. Also under terms of the 1884 document, the legislature would have been free to change or abolish the grand jury system, an institution left intact in 1889, with its use, however, made dependent on the will of the district judges.

There was change in terminology from state's attorney to county attorney, 1884-1889, and provision (in 1889) for the forfeiture of office if a judicial officer was absent from the state for 60 days. The 1884 constitution would have established four judicial districts and permitted the legislature to establish more by a two-thirds vote of each house. One of the difficult compromises of 1889 was the initial establishment of eight judicial districts, with the legislature left free to increase that number by customary majority vote.

Constitutional amendment and revision were made more difficult in 1889 by the requirement of a two-thirds instead of a majority vote in the legislature to propose amendments or to submit the question of calling a constitutional convention to the voters. New also in 1889 was the restriction placed upon the legislature and the people to propose and to consider only three amendments at a general election. However, codification and general revision of statutory law was provided for in 1889 by the exemption of this form of legislation from limitation of bills to a single subject.

Sale, not leasing of public lands, was contemplated in 1884, and there were constitutional guidelines then for appraisal, public auction, and limiting the sale of state lands to not more than one-tenth of the total in any one year. The Enabling Act of 1889 determined much of the content of the article on public lands in the new constitution, which was distinguished by a system of classification and management encompassing both sale and lease. Both constitutions carefully guarded state land income for school use.

Public schools were open to young people between the ages of 5 and 21 in 1884; the span became the ages of 6 and 21 in 1889. The framers in 1884 recognized that the public school system of the state could include high schools and normal schools, but they earmarked revenue from the state school fund for primary and grammar schools. The only provision for state administration of education made in 1884 was creation of an elected Board of Regents who were to name a university president to a four-year term. He in turn would be president of the single university contemplated, a faculty member, and presiding officer of the Board of Regents. In 1889 this section gave way to provision for a board of education that would supervise the state university and various other state educational institutions. Under the 1884 constitution, the legislature would have been free to provide for separate school elections. This was a mandatory arrangement in 1889.

There was a bluntness about an 1884 provision--not carried over in 1889--which provided that not more than one state institution (the university, asylum, penitentiary) could be in one county, and none could be in the county in which the capital was located.

Women--in 1884 and 1889--were ceremoniously welcomed to the convention galleries. In 1884 the legislature was authorized to allow women to vote in school district elections and to hold any school district office. That privilege was made a direct constitutional grant in 1889, as was a section permitting women taxpayers to vote on questions submitted to taxpayers of the state.

Mill levy limits for state property tax purposes were slightly raised in 1889, suggesting some of the hazards in constitutionally fixing tax rates. Out in 1889 was an 1884 exemption for property tax purposes of growing crops and livestock under six years old. Included in constitutional text in both 1884 and 1889 was the exemption on mines and mining claims. The legislature in 1884 was authorized to make additional exemptions; this was not so in 1889.

Omitted in 1889, in one of that convention's rare delections of "legislation," was a clause concerning classification of municipalities and limitation of municipal powers. Had it been carried over, Montana would have known a better balanced article on local government. Gone with the probate courts was the arrangement under which the county probate judge would also have served on the Board of County Commissioners and presided over that body in a system that surely would have departed from separation of powers.

Indicating uncertainty about state government's responsibilities to Montana's economic factions were the administrative groupings that took place in 1884 and 1889. In the earlier year a Bureau of Industrial resources with an elected commissioner was created. This provision gave way in 1889 to explicit permission to the legislature to create a Bureau of Agriculture, Labor and Industry with an appointed commissioner.

In moving beyond consideration of the 1884 constitution as model for the constitution of 1889, a comparative study by Elbert Allen in 1910[8] traced the sources of the Montana constitution to the constitutions of other states, which had clearly been the working materials for standing committees in both 1884 and 1889. He found an impressive direct line of descent from the Colorado Constitution of 1876, with evidence, too, of textual borrowing from other states, including California.

We've contented ouselves with the generalization that Montana's constitution framers borrowed from other states--chiefly from the newer constitutions of the West. There's a comfortable sense of regionalism in the concept, and assuredly there are western aspects to these constitutions: the right to carry water across another's land, a system of protective care of school lands that can be traced to South Dakota, a court system termed "Californian," mines tax exemption common to Nevada, Montana, Wyoming and Colorado.

Beyond these external comparisons, I've spent some time trying to detect the special influences of the Territory of Montana upon the Montana Constitution. I have little more than hunches: that of course the shift to elect several executive officers would be a welcome change, that there had long been pressure for an improved judiciary, with a prime need felt to be creating a separate Supreme Court, that the elective principle for judges would counter effectively the frustrations of the territorial years.

I have long been perplexed (and perhaps naively so) by legislative treatment in 1884 and 1889--the easy agreement to fence in the only branch of government that had known considerable freedom in 1864-1889. Forgotten, it seemed, was the fact that the legislature had stood effective ground, time and again, against acts of appointed officials.

But if you push this process of comparative state constitution writing one step backward in time, beyond our customary stopping places, you find (expectedly) that Colorado's constitution was also overwhelmingly derivative. Its models were Illinois and Pennsylvania, states which had called conventions and achieved new constitutions in 1870 and 1873.

At the time Illinois had two and a half million residents; Pennsylvania, three and a half million. Pennsylvania was the nation's leading manufacturing state; Illinois had a $205 million manufacturing industry. There were counties in Pennsylvania with twice as many people as the 140,000 who sought statehood for Montana in 1889. Fundamental to the movements for revision in those years in Illinois and in Pennsylvania had been the enormous growth of special legislation and related legislative practices: according cursory courtesy treatment to a fellow legislator's special bill for a town, or private bill for an individual or corporation, and a breakdown in formal procedure: committees by-passed, bills acted on unwittingly, uncontrolled lobbying--the famed fall from grace of the American state legislature. The figures speak for themselves: in 1869 Illinois passed 1,188 private bills and 385 public laws; in 1872, Pennsylvania passed 1,232 private bills and 54 public laws.

The cure chosen for the governmental problem of that day was detailed constitutional prohibition of local and private bills and a precise constitutional detailing of legislative procedure. The corporation article also reached its modern length as the Illinois and Pennsylvania framers of the early 1870s tried manfully to regulate from within the confines of the state the economic trends and menaces of the hour.[9]

In these matters, as well as in the case of many other restrictions, the constitutional shadow cast by the nineteenth century very often reflects a reaction to a past that was not necessarily Montana's or the West's.

The Pennsylvania press, in advance of the convention there, urged the restoration of confidence in the legislature, the elevation of the character of the legislature, the end of its being a tool of special interests. The method: rid the legislature of the power to do evil as far as possible. Protect the legislature from corruption. Curb the money power, as John W. Smurr has said of the Montana framers, by curbing the legislature.[10]Then, too, in that time, in looking at the proportion of public to private bills, it was easily reasoned that short sessions of limited frequency were all that was needed to enact sound public policy.

We've known in Montana that constitutional innovation was frowned upon in 1889 because long-awaited statehood was so near at hand. Over and over again, a clinching argument to tear at a departure from established state constitutional practice was that an originality could well endanger ratification and prolong territorial bondage. To be a state, Montana had to look like a state--and large constitutional transplantation appears to have figured heavily in the image.

The advice from Chief Justice Decius Wade on the eve of the convention of 1884 has always seemed to define the dilemma:

> . . .As the boy is father of the man, so the territory is parent of the state. As the territory is, so the state will be. Our people will not change their habits or modes of thought, their inclination or manner of life by passing the major line that makes our territory a state. . . . Our constitution to be formed and the laws to be enacted ought to be in harmony with the spirit of the people and the conditions surrounding them. They ought to have reference to the country in which they are to operate, its climate, its resources and natural advantages. . . . The Constitution of Montana ought to surpass that of any of its sister states. We have thirty-eight models from which to extract wisdom.

You gather now to make Montana's long awaited reanalysis of the wisdom of its nineteenth century guide to state government. Equally important to your task will be that large chapter of twentieth century constitutional developments--amendments, jucicial interpretation, practical usage. I have not the competency to summarize them, but I am confident that the staff of the convention commission has, and these twentieth century extensions form a core of the studies they have prepared for your use.

Late in the week, I scanned a recently published history of America in the 1960s--*Coming Apart* by William O'Neill. In the scanning, I looked for mention of what the states in America were doing in the period, perhaps for an evaluation of the cumulative effect of work such as you now undertake. I did not find it, and I thought the book's view fell short, so convinced am I that by work such as yours we knit ourselves back together again. I have admiration, as a Montana citizen, for your undertaking that work. I wish you godspeed in it.

FOOTNOTES

(Note: no attempt has been made to formally footnote the foregoing talk. It draws from congressional acts and debate, territorial laws, and the press reports and official records of the Montana conventions of 1866, 1884 and 1889. However, indebtedness to certain secondary sources is great, and they are mentioned below.)

1. The assessment is Earl S. Pomeroy's, and the writer has depended on his concise study, *The Territories and the United States, 1861-1890. Studies in Colonial Administration* (Philadelphia, 1947). Useful also has been Jack Ericson Eblen, *The First and Second United States Empires. Governors and Territorial Government, 1784-1912* (Pittsburgh, 1968).

2. The most recently published material on Montana territorial government is a series of articles by Clark C. Spence. Each has been used in this summary of Montana's government, 1864-1889: "The Territorial Officers of Montana, 1864-1869: *Pacific Historical Review,* XXX (May, 1961), "The Territorial Bench in Montana: 1864-1889," *Montana the Magazine of Western History,* XIII (January, 1963), and "Spoilsman in Montana. . .James M. Ashley," *Montana the Magazine of Western History,* XVIII (April, 1968). The general histories of Montana all include useful background treatment of the territorial years. Most detailed handling of constitutional developments can be found in James M. Hamilton, *From Wilderness to Statehood,* edited by Merrill G. Burlingame; rev. ed. (Portland: Binfords and Mort, 1970). Useful, too, for governmental history, are pertinent chapters in Merrill G. Burlingame, *The Montana Frontier* (Helena: State Publishing Co., 1942) and Merrill G. Burlingame and K. Ross Toole, *A History of Montana,* 3 vols. (New York: Lewis Historical Publishing Co., 1957).

3. Again, the assessment is taken from Pomeroy.

4. Details of Colorado constitutional history have been drawn from Donald Wayne Hensel, "A History of the Colorado Constitution in the Nineteenth Century," (unpublished Ph.D. dissertation, Dept. of History, University of Colorado, 1957).

5. Since no official records of the 1866 convention have been found, the press of the day remains the best source for information. There was a steady barrage of criticism from the *Montana Post*, and that cited here is from the issue of January 20, 1866.

6. The Tennessee comparison is drawn from Eblen.

7. Absent from this commentary is emphasis on the developments that led to four northwest territories--Montana, Washington, North Dakota, South Dakota--being granted Enabling Acts to simultaneously call conventions for the summer of 1889. Placing Montana in that regional perspective is an able study that endures well: John D. Hicks, *The Constitutions of the Northwest States* (Lincoln, Neb., 1924). It has been republished by the Montana Constitutional Convention Commission as *Montana Constitutional Convention Memorandum Number 6.*

8. Allen's analysis of the sources of the Montana Constitution was prepared for the Montana Historical Society in 1910. His essay has been reprinted by the Montana Constitutional Convention Commission as *Constitutional Convention Research Memorandum Number 4.*

9. Information on constitutional developments in Illinois and Pennsylvania has been drawn from two doctoral dissertations--William R. Thompson, "Illinois Constitutions," (Dept. of History, University of Illinois, 1960) and Mahlon Howard Hellerich, "The Pennsylvania Constitution of 1873," (Dept. of History, University of Pennsylvania, 1956)--and from two convention preparatory studies--Janet Cornelius, *A History of Constitution Making in Illinois*, prepared for the Illinois Constitution Study Commission by the Institute of Government and Public Affairs, University of Illinois, 1969, and *A History of Pennsylvania Constitutions*, published for the Pennsylvania Constitutional Convention, 1967-1968, by the Preparatory Committee.

10. There are available two studies of the constitutional convention of 1889 that were written as master's theses in the Department of History, University of Montana: John W. Smurr, "A critical study of the Montana Constitutional Convention of 1889" (1951) and Brian E. Cockhill, "An Economic Analysis of Montana's Constitution" (1968).

16

TOPIC: Bibliography Concerning Montana History and State Constitutions
COMPILER: Ed Eschler, Office of the Superintendent of Public Instruction

The short bibliography attached lists printed and visual sources pertinent to classroom study of the Convention.

Abbreviations in parentheses indicate location of the materials as follows:

MSL - Montana State Library, Helena

UM - University of Montana Library, Missoula

LL - Law Library, State Capitol, Helena

OSPI - Office of the Superintendent of Public Instruction, State Capitol, Helena

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16mm Films

Building Political Leadership: Citizen Responsibility for Good Government. RS 1963 7-12 & A 18 min.
Three main yardsticks by which citizens can measure the effectiveness of government.
Available from: OSPI; order No. 5504.

Our Living Constitution. CT* 1956 7-12 & A Color 12 min.
How our government grows and changes to meet the needs of the times, while preserving the principles on which it was founded.
How the Constitution operates to guarantee personal rights and freedoms.
Available from: OSPI; order No. 2432.

17

TOPIC: Historical and Philosophical Sources
COMPILER: Ed Eschler, Office of the Superintendent of Public Instruction
NOTE: The items outlined below can provide background relating to the beginnings of democratic thought and constitutional government. With initiative and imagination, teachers can vastly augment this outline, as approaches to a study of the democratic process are almost boundless.

I. Political thought and ideas concerned with democracy and the individual

A. A review of democratic concepts noted in ancient and early world history

1. The Greek Civilization
2. The Roman Civilization

B. A review of documents of a constitutional nature in world history

1. The Magna Charta (1215)
2. The British Bill of Rights (1689)

II. Elements of United States history relative to political, democratic, social and individual rights and constitutional government

A. Social, economic and political motives for settlement in the New World

1. The Virginia Colony (1607)
2. The Plymouth Colony (1620)
3. The Georgia Colony (1733)

B. Constitutional government in America and its evolution

1. The Declaration of Independence
2. The American Revolution
3. The United States Constitution
   a. The Bill of Rights
   b. The Articles concerned with the powers of the individual states

18

TOPIC: Potential Teaching Ideas and Techniques
COMPILER: Ed Eschler, Office of the Superintendent of Public Instruction

1. Knowledge of the issues surrounding the previous conventions and their possible relationships to the current convention should be considered. Students may identify contemporary issues as the result of individual study and perception. (The instructor perhaps should allow classes to formulate their own list of issues before relying on the list included in item #7 of the File.)

2. Pressure groups and special interest groups and the nature of their quests can be identified. A study of special interests should include a discussion of the influence or lack of influence of partisan politics on Montana's constitutional conventions--past and present.

3. Biographical sketches of convention delegates can be developed by individual students. These sketches would be useful in aiding an understanding of the peoples' representatives and of how some of the representatives emerge as leaders whose influence has an important bearing on the outcome of the convention. Important personalities involved in the current convention can be compared with the luminaries of the past conventions for the purpose of understanding the victories and defeats of government leadership.

4. Classes can appreciate work of the convention and the individuals involved through role playing. Role playing can be implemented by conducting a "constitutional convention" in the school. By having students conduct their own convention, a working knowledge of parliamentary procedure should be generated. For details relating to organizing a convention, consult the following individuals:

Mr. Donald L. Byrd, Social Studies Instructor, Helena Senior High School, Helena, Montana 59601. (See item #9 in the File.)

Mr. T. Alan Pattison, State Chairman, YMCA Youth and Government, Helena YMCA, 331 Fuller Avenue, Helena, Montana 59601. (See item #8 in the File.)

5. Classes can keep up to date with day-by-day proceedings of the current convention by building and maintaining a newspaper clipping file of important items.

MONTANA CONSTITUTIONAL CONVENTION INSTRUCTIONAL IDEA AND RESOURCE FILE
A PROJECT INITIATED AND COORDINATED BY DOLORES COLBURG, SUPERINTENDENT OF PUBLIC INSTRUCTION

19

TITLE: "The Mathematics of Government"
AUTHOR: Alan D. Nicholson, Office of the Superintendent of Public Instruction
SUGGESTION: Share this item with a mathematics teacher.

Many, if not most, of the problems addressed by Constitutional Convention delegates will have mathematical dimensions. The problems of establishing a broad tax base, of providing for an equitable distribution of tax burden, of establishing districts of all types and their boundaries, and of apportioning various bodies (including the legislature) require mathematics for their solution. While some facets of these and other problems will be left for legislative solution, the Constitutional Convention will have to provide the answer for some and will have to know the feasibility of solution for others.

Mathematics teachers can capitalize on the natural interest generated by the Constitutional Convention to bring real applications of mathematics to their classrooms. One approach might be to request that students investigate the mathematical components of the issues confronting delegates and future legislative assemblies. This will give them an opportunity not only to attack real problems but, in many instances, to formulate them as well.

To provide guidance for initiating this kind of activity, the following references are suggested.

1. Meder, Albert E., Jr., Legislative Apportionment (from Mathematics Enrichment Series), Houghton Mifflin Company, Boston, 1966.

   Written for students, this pamphlet provides an excellent opportunity to see how mathematical reasoning can be applied to an important practical problem. While the booklet deals with legislative apportionment, the mathematics which is revealed can be used to attack numerous problems of the kind faced by Convention delegates. A knowledge of inequalities and of the basics of American government are all one needs to appreciate the mathematics involved.

2. Silva, Ruth C., "Reapportionment and Redistricting," Scientific American, Vol. 213, No. 5 (November, 1965), pp. 20-27.

   This article is a discussion of the problems that arise in districting.

20

TOPIC: Chronological Elements of Montana History Applicable to Constitutional Conventions
COMPILER: Ed Eschler, Office of the Superintendent of Public Instruction

Certain key events and personalities in Montana's history had important impact on our present Constitution. The chronology which follows lists principal issues and events leading up to the first Constitutional Convention in 1884 and outlines major political and social issues through 1957. This chronology is not complete and is meant only to serve as a starting point for the study of the historical perspectives surrounding the present Constitutional Convention.

1864 - Montana Territory created; first legislature meets in Bannack; Sidney Edgerton first governor

1865 - Territorial capital moved to Virginia City

1865-
1867 - "Reign of Meagher" - Acting Governor Thomas Francis Meagher aligns self with pro-Southern Democrats against "patriotic" elements; period of extreme partisanship

1866 - Meagher followers meet in convention to plan statehood (Helena)

1867 - Congress annuls all acts of 2nd and 3rd legislative sessions - unprecedented action in American history; Meagher disgraced

1868 - Democratic party dominant in Montana; emergence of the "Big Four": William A. Clark, Marcus Daly, Samuel Hauser and Col. C. A. Broadwater

1872 - Mining industry given special tax privileges by legislature; genesis of contest between reform groups and mine operators

1875 - Territorial capital moved from Virginia City to Helena

1878 - Butte Workmen's Union organized

1880 - Utah Northern Railroad enters Montana from south (completed to Silver Bow in 1881)

1881 - Northern Pacific Railroad reaches Miles City from East (completed 1883)

1884 - Constitutional Convention meets in Helena; Congress refuses statehood

1885 - Montana Stockgrowers Association formed; peak in cattle boom; Samuel T. Hauser, leading Montana capitalist and Democrat, appointed governor by President Cleveland

1888 - Forces of Marcus Daly thrown against William A. Clark in election for delegate to Congress; commencement of "War of the Copper Kings;" Australian (secret) ballot adopted; Mineral Lands Convention in Helena attacks land policy of Northern Pacific Railroad

1889 - Benjamin F. White, Dillon businessman, appointed last territorial governor of Montana by President Harrison; Montana Enabling Act: Territory permitted to hold convention and apply for statehood; Constitutional Convention in Helena; disputed election: rival Houses of Representatives organized; chaos in legislature for two sessions; Joseph K. Toole, first state Governor; statehood proclaimed

1892 - First "Capital Fight": contest between Anaconda (Marcus Daly) and Helena (Clark) for site of state capital

1893 - Legislature refuses to elect William A. Clark to U.S. Senate; irregularities charged by both sides; contestants begin to buy up state newspapers; state university, college, school of mines and normal college established by legislature

1894 - Helena made state capital; great victory for William A. Clark

1896 - Democratic-Populist coalition defeats Republicans; widespread support for free silver; Populist governor (Robert Smith) elected

1899 - Amalgated Copper Company formed from Daly mines and Boston holdings; Standard Oil Company stages spectacular flotation of new stock; Legislative scandals: bribery charged against Clark in his bid for the U.S. Senate; extraordinary scenes in the legislature; collapse of party discipline; U.S. Senate refuses to seat Clark

1900-
1906 - Dramatic contest between Amalgated Copper and F.A. Heinze; Heinze supported by anti-Standard Oil sentiment; judiciary corrupted and legislature overrun by corporate interests; Heinze sells out in 1906, loses fortune in Panic of 1907

1901 - Joseph K. Toole begins second term as governor

1905 - Industrial Workers of the World (IWW) clashes with locals of the A.F. of L. in Butte

1906 - Chicago, Milwaukee, St. Paul and Pacific Railroad enters Montana (completed 1909); initative and referendum adopted

1908 - Edwin L. Norris begins term as governor

1909 - IWW lumber strikes at Somers and Kalispell; "Free-Speech" strike at Missoula

1911 - Socialist mayor elected in Butte

1912 - First Farmers Union local established (Ronan); formation of Montana Power Company, a New Jersey corporation; Joseph Dixon of Montana chosen to manage national campaign of Theodore Roosevelt's Bull-Moose party

1912-
1920 - "County-Booming" craze in Montana; 25 new counties created

1913 - Sam V. Stewart begins term as governor; State Highway Commission created; Northern Montana College established

1914 - Women given complete voting rights

1915 - Amalgamated becomes Anaconda Copper Mining Company (ACM)

1916 - Non-Partisan League (farmer protest movement) enters Montana, alarms conservatives; Jeanette Rankin of Montana becomes first woman elected to Congress, votes against war with Germany in 1917

1917 - IWW leader Frank Little lynched in Butte

1917-
1918 - Miscalcuation results in overdraft of Montana youth for war service

1918 - Wave of anti-German feeling sweeps state; German-language books hidden at University to prevent their destruction; wartime influenza epidemic hits Montana

1919-
1924 - Anaconda Copper Mining Company attacked: Professor Levine of Montana State University suspended for publishing criticism of mines tax (1919); later restored, resigns; reformers, some labor and farm groups, Non-Partisan League clamor for tax reform (1919-1920); Joseph Dixon defeats B. K. Wheeler for governor; urges legislature to increase mines tax (1920-21); mines tax referendum; people vote to increase the tax; Dixon defeated for reelection (1924), succeeded by John E. Erickson

1919-
1932 - Severe depression in farming throughout the period, in other lines after 1929; only state in nation to lose population during 1920-30

1921 - Gasoline tax becomes law

1922 - Tong war among Chinese of Butte

1924 - Senator Walsh of Montana exposes Teapot Dome scandal in Washington, D. C.; B. K. Wheeler vice-presidential candidate for defeated Progressive Party

1925 - Eastern Montana College of Education established

1933 - Frank H. Cooney begins term as governor; Walsh dies before taking office as United States attorney general under F. D. Roosevelt

1935 - W. E. Holt begins term as governor; Highway Patrol created by legislature

1937 - Roy E. Ayers begins term as governor

1941 - Sam C. Ford begins term as governor

1946 - Senator Wheeler defeated for reelection to U.S. Senate

1949 - John W. Bonner begins term as governor

1950 - Veteran bonus approved by voters; Salish and Kootenai Indians sue United States for value of lands lost by Stevens treaty (1855); decision pending in 1957

1951 - Oil boom begins in eastern Montana; new oil law restricts leasing powers of Board of Land Commissioners; struggle for control of oil on state land begins; State Supreme Court invalidates lotteries

1952 - Teacher associations protest changes in oil law, assert income from school oil lands in jeopardy

1953 - J. Hugo Aronson begins term as governor; another oil law; legislature provides for leasing oil lands to industry for indeterminate periods

1954 - Interim Legislative Committee scheme invalidated by State Supreme Court

1955 - Board of Land Commissioners attacks 1953 oil law before the United States Supreme Court; court decides against Board and upholds the law (Arnold Olsen as counsel for the Board, Dean Acheson among opposing counsel)

1956 - Federal government and Crow Indians dispute value of lands required for Yellowtail Dam; Butte Miners reject CIO in favor of International Union of Mine, Mill and Smelter Workers; Attorney General Olsen (D) runs for governor on program assailing oil lease law; defeated by incumbent (J. Hugo Aronson)

1957 - State penitentiary at Deer Lodge seized by inmates; riot ends on promises of reform; Paradise Dam controversy; private utilities, Indian groups, local farmers denounce proposed hydroelectric facility on the Clark Fork River; project postponed; recession: Price fall in metals and lumber depresses income generally; transportation hit; housing off; unemployment problem serious by end of year

21

TOPIC: Brochure, "A Guide to Montana's Constitutional Convention"
SOURCE: Montana Associated Utilities

Copies of the attached brochure were made available compliments of Montana's Rural Electrics. Additional copies are available by writing to Montana Associated Utilities, P. O. Box 1306, Great Falls, Montana 59401.

a guide to Montana's Constitutional Convention —1972

". . . to provide for the health, safety, and welfare of the people; maintain a representative and orderly government; eliminate poverty and inequality; assure legal, social and economic justice; provide opportunity for the fullest development of the individual; insure domestic tranquility; provide for the common defense; and secure the blessings of freedom and liberty to ourselves and our posterity."

—Preamble new Illinois Constitution

Forrest Anderson
governor

The Constitutional Convention will reestablish the foundation of law and government in this state.

I believe this is a profound expression of our fundamental belief in self government.

The people of Montana called this Convention.

They elected you as delegates.

And they will ultimately approve or reject the Constitution you write.

A properly written Constitution will define the structure and responsibilities of government and provide for the protection of the rights of the people of this State.

Many generations of Montanans not yet born will live under these laws if you do your job well.

Constant change and the emergence of new ideas and beliefs will challenge the wisdom of your efforts.

And each of you will leave a mark forever on the history of Montana.

But more importantly, you have an opportunity to initiate a new history—a history of dynamic and responsive state government . . .

Those who came before us changed a wilderness into a state.

We have fought to lift this State up from its colonial status in the National economy.

We are working to preserve our unequalled environment.

We have undertaken many programs to improve our state and local governments.

We are now beginning the task of revising our State Constitution . . .

I wish you well.

Excerpts from the address of Gov. Forrest Anderson to the Constitutional Convention (Nov. 29, 1971)

The citizens of Montana demonstrated their faith in the principles of effective government when they endorsed the Constitutional Convention as one of the means of up-dating Montana's governmental process. The delegation selected for the Constitutional Convention is most impressive and indicates a good cross-section of the State's populace.

Revising the State's basic laws is a challenge, but one I know the Con-Con delegation will meet head-on. Montana has an opportunity to demonstrate to its sister states that we have the capacity to meet the problems and challenges of the late Twentieth Century. I wish them well in this most important bi-partisan effort.

Sincerely yours

Mike Mansfield

Sen. Mike Mansfield

Sen. Lee Metcalf

The members of Montana's Constitutional Convention have an opportunity seldom granted to anyone. The charge to write a constitution for a state is an occasion that comes only in several lifetimes. Montana's constitution is admittedly in need of amendment. But the changes made must be wise ones. Participation calls for the highest standards of statesmanship and scholarship. Perhaps, however, the greatest need will be for restraint in the decisions made so that our constitutional directives will be general, cogent and not legislative in nature. Boldness and innovative ideas must not be feared. Congratulations and best wishes to every member of the Convention.

Very truly yours,

Lee Metcalf

Constitutional Convention

1. Last constitutional convention 1889.
2. 1969 legislative assembly created constitution convention committee composed of legislators and also provided for public vote on calling of constitutional convention which, on the third day of November 1970, was passed by vote of 133,482 to 71,643.
3. 1971 legislative assembly passed the enabling act setting up the machinery for the constitutional convention.
   A. Constitution and enabling act provides for selection of delegates on the same basis as the state house of representatives, i.e., 100 delegates from 23 districts.
   B. Partisan based.
   C. Primary election, Sept. 14.
   D. General election, Nov. 2.
   E. Independent candidates automatically qualified for general election.
4. Enabling act also provides for the following:
   A. Constitution convention commission whose sole purpose is to provide background information for the elected delegates.
   B. A 3-day organizational session for the delegates commencing Nov. 29, 1971, which is preceded by a 2-day orientation session for the delegates.
      (1) Organizational session to consist of election of temporary and permanent officers of the convention, rules to be adopted for the convention, and establishment of committees.
         (a) Committees not to exceed 10, which may include the following: bill of rights, legislature, executive, judiciary, revenue and finance, suffrage and constitutional amendment, local government, education, general government, miscellaneous.
         (b) Each delegate will probably serve on only one committee.
   C. Delegates to the convention will be paid the same per diem ($20 per day) and expenses ($25 per day) as provided by law for members of the legislature in addition to three round trips to Helena at the rate of 9¢ per mile.
   D. Enabling act provides further that the final draft of the proposed new constitution shall be printed and mailed to every elector in the state of Montana and such other means of publication as the convention deems fit.
5. Constitutional convention will convene its regular session in the house of representatives, state capitol, Helena on Jan. 17, 1972, and will run approximately 60-80 days as $500,000 has been appropriated by the 41st legislative assembly for such purpose.
6. Thumbnail sketch of the working procedure of the convention is as follows:
   A. All proposals will be referred to the appropriate committee and after a stated period of time each

. . . IN BRIEF

committee will commence hearings on all the proposals before them. At the conclusion of the hearings by the various committees, each committee will draft their respective article or articles of the proposed constitution after which the same will be submitted to the convention for debate and adoption or rejection. When said articles are finally adopted, they will be submitted to a committee on style and submission to be put in proper draft form and sequence, after which the convention will adopt and sign the proposed constitution.

7. When proposed constitution is finally adopted and signed by the delegates, said convention will adjourn and, as provided in the enabling act, not less than two nor more than six months subsequent to adjournment the proposed constitutional document must be voted upon by the people.
8. The convention may submit the proposed document to the voters for ratification in any of the following three manners:
   A. As a new constitution.
   B. As a new constitution with the exception of separate proposals to be voted on individually, or
   C. As a series of separate amendments
9. Basic issues to be debated at the convention.
   A. Inclusion of bill of rights, i.e., right of privacy, liberty of conscience, freedom from discrimination, extension of search and seizure to electronic surveillance and wiretapping.
   B. Voting age residency requirements, and ecomonic qualifications to vote on matters concerning taxation and debt.
   C. Amendment of 60-day biennial limitation on legislative sessions.
   D. Unicameral or bicameral legislative body.
   E. Responsibility and standards for legislative reapportionment.
   F. Which executive officers should be elected and which should be appointed
   G. Should the governor and lieutenant governor be elected on a joint ticket.
   H. Single executive versus appointed board concept of administration of various departments.
   I. Legislative approval of gubernatorial appointments.
   J. Should the supreme and district judges be elected or appointed, together with method of appointment and term.
   K. Should there be modification of the inferior court system.
   L. Should the constitution specifically set out limitations in the area of taxation and finance.
   M. State aid to private education.
   N. Legalization of state lottery.
   O. Home rule for cities and/or counties.
   P. Provision regarding amendment to constitution.
   Q. General or specific form of constitution.

Leo Graybill Jr.
president

Office and Committee Room Assignments

CAPITOL BUILDING

Third Floor, Room

330 Bill of Rights Committee
343 Eastern & Western District Vice Presidents
344 Rules and Resolutions Committee
351 First Vice President
352 Executive Director
353 Sergeant-at-Arms
364 Chief Clerk
366 Public Information Office

Fourth Floor, Room

402 Natural Resources and Agriculture Committee
410 General Government and Constitutional Amendment Committee
412 Judiciary Committee Office
413-15 Judiciary Committee
312SW Style and Drafting Committee
414 Steno Pool
428A Public Health, Welfare and Labor Committee
428B Executive Committee Office
430-31 Executive Committee
432 Legislative Committee Office
433-34 Legislative Committee
435 Library
436 Education and Public Lands Committee
437 Local Government Committee

MITCHELL BUILDING

Second Floor, Room

207 Revenue and Finance Committee Office
215 Revenue and Finance Committee

Jean Bowman
secretary

Legislative County-District Index

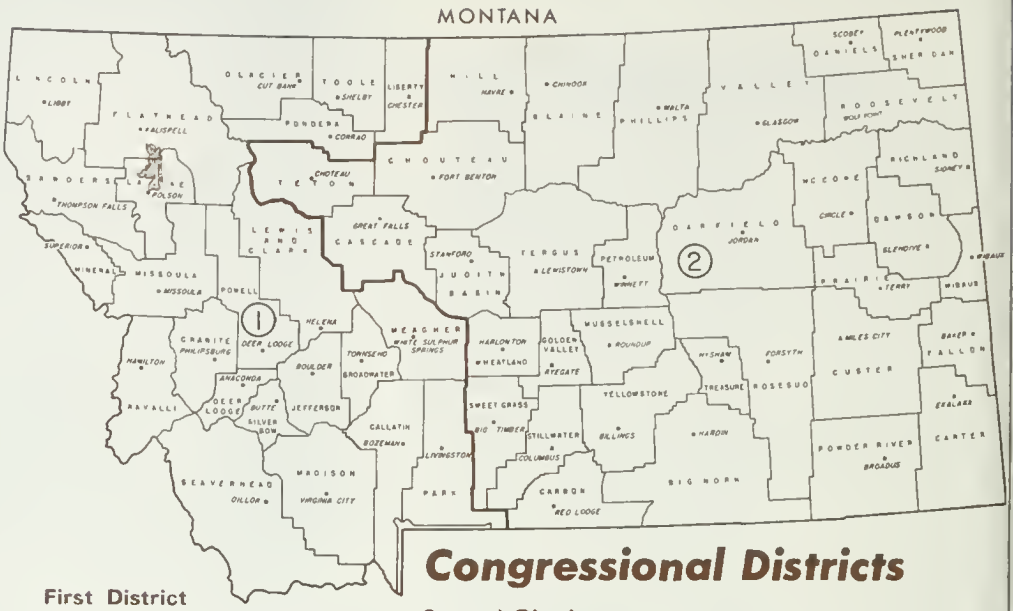
Beaverhead 21
Big Horn 1
Blaine 5
Broadwater 12
Carbon 7
Carter ..... 1 & 2
Cascade 13
Chouteau 14
Custer 2
Daniels 4
Dawson 3
Deer Lodge 19
Fallon 3
Fergus 10
Flathead 16
Gallatin 11
Garfield 6
Glacier 15
Golden Valley 9
Granite 19
Hill 14
Jefferson 12
Judith Basin 14
Lake 17
Lewis and Clark 12
Liberty 14
Lincoln 23
Madison 21
McCone 6
Meagher 9
Mineral 23
Missoula ..... 18 & 19
Musselshell 9
Park 11
Petroleum 10
Phillips 5
Pondera 15
Powder River 1
Powell 19
Prairie 6
Ravalli 22
Richland 3
Roosevelt 4
Rosebud 6
Sanders 23
Sheridan 4
Silver Bow 20
Stillwater 7
Sweet Grass ..... 7 & 9
Teton 15
Toole 15
Treasure 6
Valley ..... 4 & 5
Wheatland 9
Wibaux 3
Yellowstone ..... 8 & 9

Directory of Delegates

NAME	RESIDENCE OR MAILING ADDRESS	COUNTY OF RESIDENCE
Aasheim, Magous	Antelope 59211	Sheridan
Aodersoo, John H. Jr.,	P. O. Box 101, Alder 59710	Madison
Andersoo, Oscar L.	406 4th St. S.E., Sidney 59270	Richland
Arbaoas, Harold	Box 1708, Great Falls 59401	Cascade
Arness, Franklin	P. O. Box 612, Libby 59923	Lincoln
Aronow, Cedor B.	P. O. Box 651, Shelby 59474	Toole
Artz, Wm. H. (Bill)	2812 2nd Ave. So., Gt. Falls 59405	Cascade
Ask, Thomas M.	1005 Second St. West, Roundup 59072	Musselshell
Babcock, Betty	720 Madison, Helena 59601	Lewis & Clark
Barnard, Lloyd	Box No. 175, Saco 59261	Valley
Bates, Grace C.	Rt. 2, Box 61, Manhattan 59741	Gallatin
Belcher, Doo E.	1116 2nd St. West, Roundup 59072	Musselshell
Berg, Ben E., Jr.	520 So. Willson, Bozeman 59715	Gallatin
Berthelsoo, E. M.	P. O. Box 727, Conrad 59425	Pondera
Blaylock, Chet	502 3rd Ave., Laurel 59044	Yellowstone
Blend, Virginia H.	26 Prospect Dr., Great Falls 59405	Cascade
Bowman, Jeao M.	2244 Fairview Place, Billings 59102	Yellowstone
Brazier, Geoffrey L.	531 W. Lawrence, Helena 59601	Lewis & Clark
Brown, Bruce M.	2312 Pearl, Miles City 59301	Custer
Bugbee, Mrs. Daphne	Evan Kelly Road, Missoula 59801	Missoula
Burkhardt, William A.	2001 E. 6th Ave., Helena 59601	Lewis & Clark
Cain, Marjorie	102 East Larch, Libby 59923	Lincoln
Campbell, Bob	501 Western Bank Bldg., Missoula 59801	Missoula
Cate, Jerome J.	P. O. Box 1297, Billings 59101	Yellowstone
Champoux, Richard J. (Rick)	1138 First Ave. E., Kalispell 59901	Flathead
Choate, Lyman W.	119 So. Jordan Ave., Miles City 59301	Custer
Conover, Max	P. O. Box 46, Broadview 59015	Yellowstone
Cross, C. Louise	Box 1388, Glendive 59330	Dawson
Dahood, Wade J.	P. O. Box 727, Anaconda 59711	Deer Lodge
Davis, Carl M.	P. O. Box 187, Dillon 59725	Beaverhead
Delaney, Douglas	Grass Range 59032	Fergus
Driscoll, Maurice	331 So. Washington, Butte 59701	Silver Bow
Drum, Dave	3112 Radcliff Dr., Billings 59102	Yellowstone
Eck, Dorothy	10 W. Garfield, Bozeman 59715	Gallatin
Erdmann, Mariao S.	2118 4th Ave. No., Gt. Falls 59401	Cascade
Eskildsen, Leslie "Joe"	P. O. Box 866, Malta 59538	Phillips
Etchart, Mark	Box 229, Glasgow 59230	Valley
Feit, James R.	1519 Rimrock Rd., Billings 59102	Yellowstone
Foster, Donald R.	R.R. 2, Lewistown 59457	Fergus
Furlong, Noel D.	820 6th Ave. West, Kalispell 59901	Flathead
Garlington, J. C.	1600 Arthur Ave., Missoula 59801	Missoula
Graybill, Leo, Jr.	3401 7th Ave. No., Great Falls 59401	Cascade
Gysler, E. S. "Erv"	P. O. Box 81, Fort Benton 59442	Chouteau
Habedank, Otto T.	Box 751, Sidney 59270	Richland
Hanson, R. S. (Bob)	901 22nd St., Ronan 59864	Lake
Hanson, Rod	Box 476, Fairfield 59436	Teton
Harbaugh, Geoe	Box 155, Poplar 59255	Roosevelt
Harlow, Paul K.	P. O. Box 277, Thompson Falls 59873	Sanders
Harper, George	Box 1080, Helena 59601	Lewis & Clark
Harrington, Do W.	1201 N. Excelsior St., Butte 59701	Silver Bow
Heliker, George B.	920 Evans, Missoula 59801	Missoula
Holland, David L.	1361 Dewey Blvd., Butte 59701	Silver Bow
Jacobsen, Arnold W.	Box 36, Whitefish 59937	Flathead
James, George H.	P. O. Box 884, Libby 59923	Lincoln
Johnsoo, Torrey B.	Spear O Ranch, Kirby Rte., Busby 59016	Big Horn
Joyce, Thomas F.	2501 Gladstone St., Butte 59701	Silver Bow
Kamhoot, A. W.	P. O. Drawer K, Forsyth 59327	Rosebud
Kelleher, Robert Lee	2108 Grand Ave., Billings 59102	Yellowstone
Leuthold, John H.	Molt 59057	Stillwater
Loeodorf, Jerome T.	1901 Jerome Pl., Helena 59601	Lewis & Clark
Lorello, Peter "Pete"	20201 West Park, Anacooda 59711	Deer Lodge
McCarvel, Joseph H.	521 East Third, Anacooda 59711	Deer Lodge
McDonough, Russell C.	301 South Nowlan Ave., Glendive 59330	Dawson
McKeon, Mike	124 Oak St., Anaconda 59711	Deer Lodge
McNeil, Charles B.	P. O. Box 450, Polson 59860	Lake
Mahoney, Charles H.	Box 25, Clancy 59634	Jefferson
Mansfield, Mrs. Rachell K.	Geyser 59447	Chouteau
Martin, Fred J.	P. O. Box 984, Livingston 59047	Park
Melvin, J. Mason	316 South Fifth Ave., Bozeman 59715	Gallatin
Monroe, Lyle R.	1208 9th St. So., Great Falls 59401	Cascade
Murray, Marshall	P. O. Box 899, Kalispell 59901	Flathead
Noble, Robert B. (Bob)	504 First Ave. S.W., Gt. Falls 59401	Cascade
Nutting, Richard A.	Box 67, Silesia 59080	Carbon
Payne, Mrs. Thomas "Katie"	112 Pattee Creek Dr., Missoula 59801	Missoula
Pemberton, Catherine	TA Ranch, P. O. Box 65, Broadus 59317	Powder River
Rebal, Donald	3500 Eleventh Ave. So., Great Falls 59401	Cascade
Reichert, Arlyne E.	1409 4th Ave. So., Great Falls 59401	Cascade
Robinson, Mrs. Mae Nan	2223 So. Fifth West, Missoula 59801	Missoula
Roeder, Richard B.	800 South Third Ave., Bozeman 59715	Gallatin
Rollins, George W.	2609 Beth Dr., Billings 59102	Yellowstone
Romney, Miles	P. O. Box 633, Hamilton 59840	Ravalli
Rygg, Sterling	Box 429, Kalispell 59901	Flathead
Scanlio, Don	817 22nd St. West, Billings 59102	Yellowstone
Schiltz, John M.	729 Highland Park Dr., Billings 59102	Yellowstone
Sideríus, Henry L.	Somer Stage, Kalispell 59901	Flathead
Simon, Clark E.	1210 Eighth St. West, Billings 59102	Yellowstone
Skari, Carman	Box 281, Chester 59522	Liberty
Sparks, M. Lynn	3505 Quincy, Butte 59701	Silver Bow
Speer, Lucile	1529 Helena Ave., Missoula 59801	Missoula
Studer, R. J., Sr.	3002 Green Terrace Dr., Billings 59102	Yellowstone
Sullivao, Mrs. John Justio (Veronica)	724 North Wyoming, Butte 59701	Silver Bow
Swanberg, William H.	618 5th Ave. No., Great Falls 59401	Cascade
Toole, John H.	617 W. Crestline, Missoula 59801	Missoula
Van Buskirk, Mrs. Edith	436 Fourth Ave., Havre 59501	Hill
Vermillion, Robert	Box 844, Shelby 59474	Toole
Wagner, Roger A.	Box 377, Nashua 59248	Valley
Ward, Jack K.	204 Daly Ave., Hamilton 59840	Ravalli
Warden, Margaret S.	208 Third Ave. North, Gt. Falls 59401	Cascade
Wilson, Archie O.	Hysham 59038	Treasure
Woodmansey, Robert F.	2920 Five B St., N.E., Great Falls 59401	Cascade

John Toole
vice president

Dale Harris
executive director



Congressional Districts

First District

Beaverhead
Broadwater
Deer Lodge
Flathead
Gallatin
Glacier
Granite
Jefferson
Lake
Lewis and Clark
Liberty
Lincoln
Madison
Meagher
Mineral
Missoula
Park
Pondera
Powell
Ravalli
Sanders
Silver Bow
Toole

Second District

Big Horn
Blaine
Carbon
Carter
Cascade
Chouteau
Custer
Daniels
Dawson
Fallon
Fergus
Garfield
Golden Valley
Hill
Judith Basin
McCone
Musselshell
Petroleum
Phillips
Powder River
Prairie
Richland
Roosevelt
Rosebud
Sheridan
Stillwater
Sweetgrass
Teton
Treasure
Valley
Wheatland
Wibaux
Yellowstone

Rep. Richard Shoup

First Congressional District

Rep. John Melcher

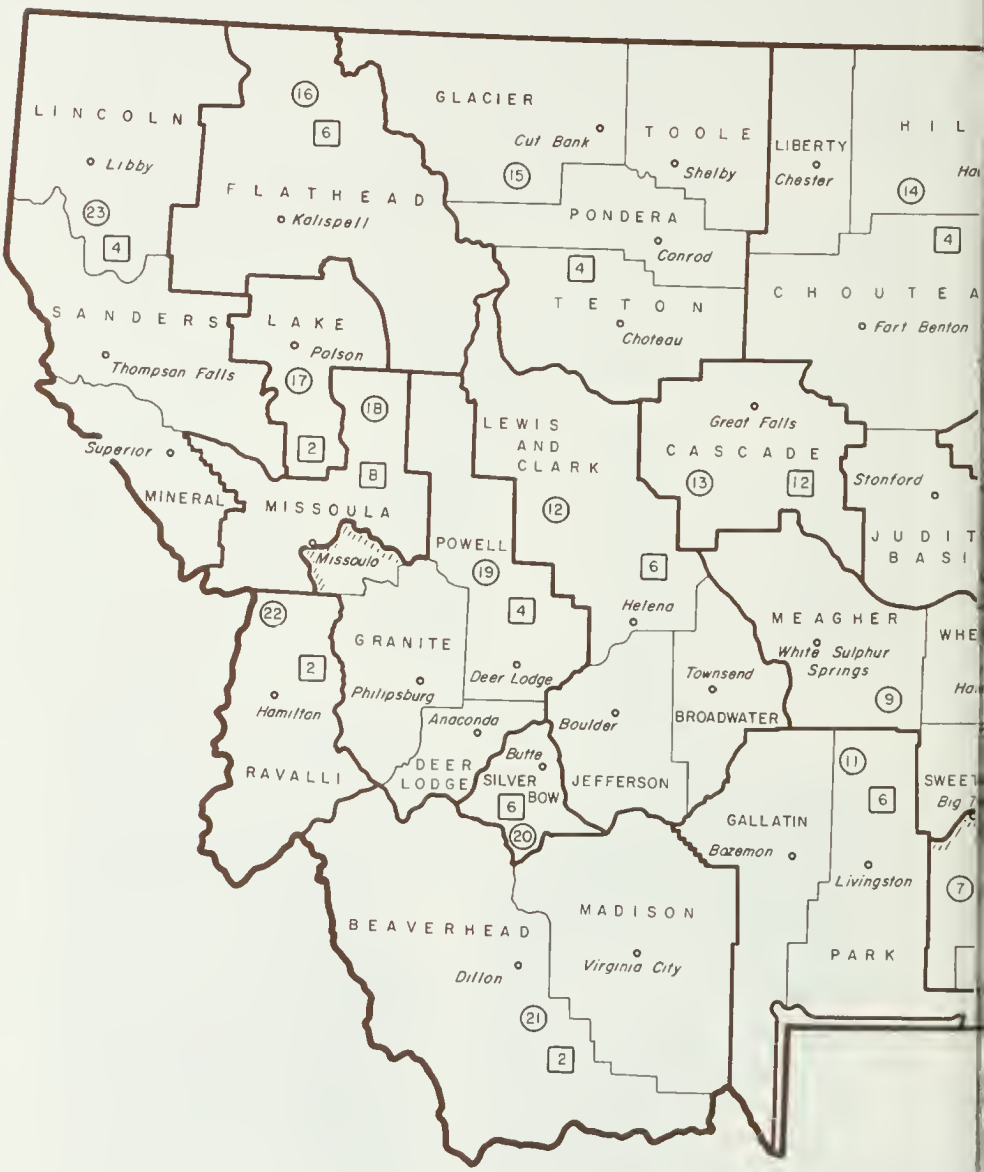
Second Congressional District

Constitutional Convention Delegates

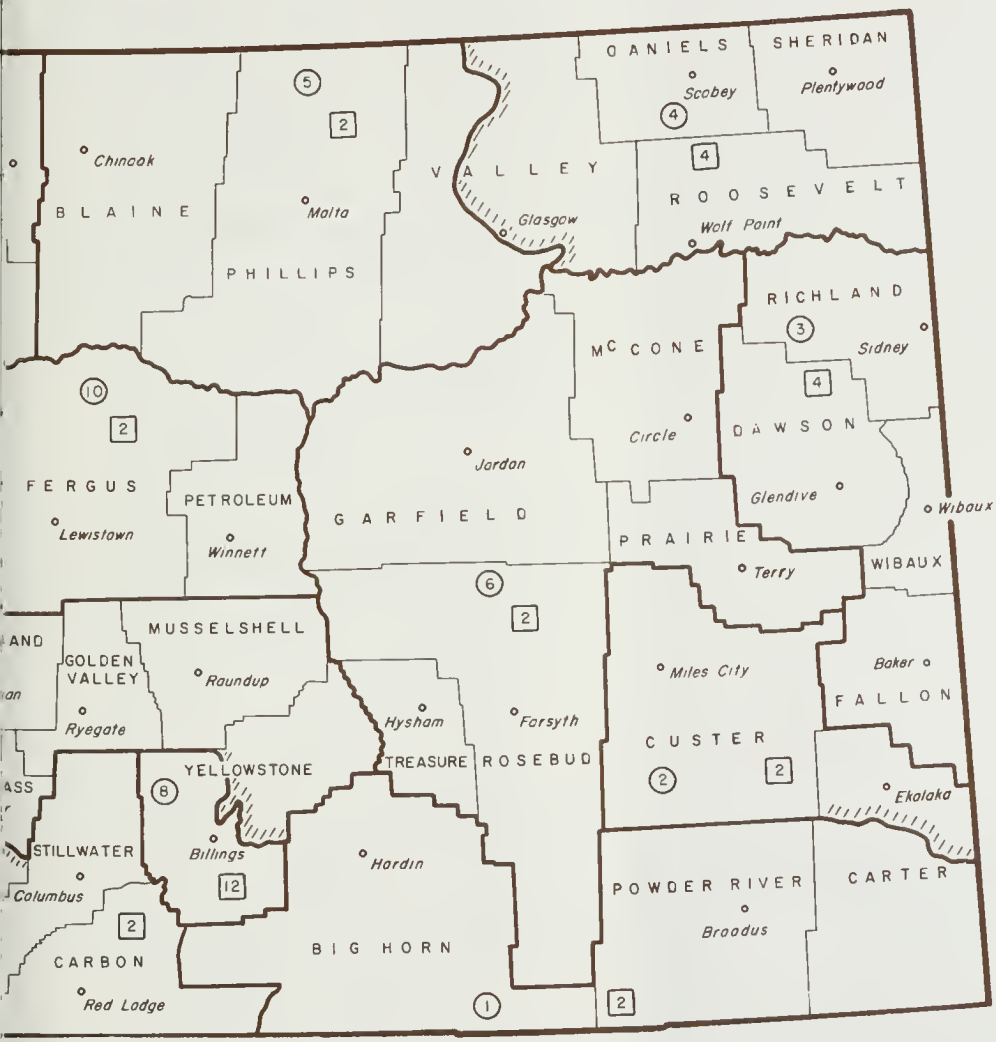
(by district/county index)

COUNTIES	DELEGATES
DISTRICT NO 1 Big Horn, Powder River, and Carter less Ekalaka census enumerator division	Torrey B Johnson, Catherine Pemberton
DISTRICT NO 2 Custer and the Ekalaka census enumerator division of Carter	Bruce M Brown Lyman W Choate
DISTRICT NO 3 Richland, Dawson, Wibaux and Fallon	Oscar L Anderson C Louise Cross Otto T Habedank Russell C McDonough
DISTRICT NO 4 Sheridan, Roosevelt, Daniels and Valley less Fort Peck and Hinsdale census enumerator divisions	Magnus Aasheim Mark Etchart Gene Harbaugh Roger A Wagner
DISTRICT NO 5 Blaine, Phillips, Fort Peck and Hinsdale census enumerator divisions of Valley	Lloyd Barnard Leslie "Joe" Eskildsen
DISTRICT NO 6 Garfield, Rosebud, McCone, Prairie and Treasure	A W Kamhoot Archie O Wilson
DISTRICT NO 7 Stillwater, Carbon and south of the Yellowstone census enumerator division of Sweet Grass	John H Leuthold Richard A Nutting
DISTRICT NO 8 Yellowstone less Buffalo Creek census enumerator division, Shepherd enumerator division and Huntley Project census enumerator division	Chet Blaylock Jean M Bowman Jerome J Cate Max Conover Dave Drum James R Felt Robert Lee Kelleher George W Rollins Don Scanlin John M Schiltz Clark E Simon R J Stuoer, Sr
DISTRICT NO 9 Meagher, Wheatland, Golden Valley, Musselshell, north of Yellowstone census enumerator division of Sweet Grass and Buffalo Creek census enumerator division, Huntley Project enumerator division and Shepherd census enumerator division of Yellowstone	Thomas M Ask Don E Belcher
DISTRICT NO 10 Fergus and Petroleum	Douglas Delaney Donald R Foster
DISTRICT NO 11 Gallatin and Park	Grace C Bates Ben E. Berg, Jr Dorothy Eck Fred J Martin J. Mason Melvin Richard B Roeder
DISTRICT NO 12 Broadwater, Jefferson and Lewis & Clark	Betty Babcock Geoffrey L Brazier William A Burkhardt George Harper Jerome T Loenddrf Charles H Mahoney
DISTRICT NO 13 Cascade	Harold Arbanas Wm H (Bill) Artz Virginia H Blend Marian S Erdmann Leo Graybill, Jr Lyle R Monroe Robert B (Bob) Noble Donald Rebal Arlyne E Reichert William H Swanberg Margaret S Warden Robert F Woodmansey
DISTRICT NO 14 Hill, Chouteau, Judith Basin and Liberty	E S "Erv" Gysler Mrs R K Mansfield Carman Skari Edith Van Buskirk
DISTRICT NO 15 Glacier, Toole, Pondera and Teton	Cedor B Aronow E M Berthelson Rod Hanson Robert Vermillion
DISTRICT NO 16 Flathead	Richard J Champoux Noel D Furlong Arnold W Jacobsen Marshall Murray Sterling Rygg Henry L Siderius
DISTRICT NO 17 Lake	R S (Bob) Hanson Charles B McNeil
DISTRICT NO 18 Missoula less Bonner-Clinton census enumerator division	Mrs Daphne Bugbee Bob Campbell J C Garlington George B Heliker Mrs Thomas Payne Mrs Mae Nan Robinson Lucile Speer John H Toole
DISTRICT NO 19 Powell, Deer Lodge, Granite and Bonner-Clinton census enumerator division of Missoula	Wade J Dahood Peter "Pete" Lorello Joseph H McCarvel Mike McKeon
DISTRICT NO 20 Silver Bow	Maurice Driscoll Dan W Harrington David L Holland Thomas F Joyce M Lynn Sparks Mrs John Justin (Veronica) Sullivan
DISTRICT NO 21 Madison and Beaverhead	John H Anderson, Jr Carl M Davis
DISTRICT NO 22 Ravalli	Miles Romney Jack K Ward
DISTRICT NO 23 Mineral, Sanders and Lincoln	Franklin Arness Marjorie Cain Paul K Harlow George H James

—Constitutional Conven



ion Delegate Districts—



District boundaries

County boundaries

District number

Number of delegates

District boundaries that follow census enumerator districts

Constitutional Convention • • •

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Daphne Bugbee
Miles Romney
Jerome Cate
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Richard Nutting
Torrey Johnson
Arlyne Reichert
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Bruce Brown
honorary vice president
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(D) Laurel, Dist 8

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(D) Helena, Dist 12

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(D) Missoula, Dist 18

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(D) Billings, Dist 8

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(D) Kalispell, Dist 16

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(D) Broadview, Dist 8

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(D) Glendive, Dist 3

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(R) Anaconda Dist 19

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(D) Dillon, Dist 21

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(D) Grass Range Dist 1D

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(D) Butte, Dist 2D

DAVE DRUM
(R) Billings Dist 8

DDRDTHY ECK
(D) Bozeman, Dist 11

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(R) Broadus, Dist 1

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(R) Hamilton, Dist. 22

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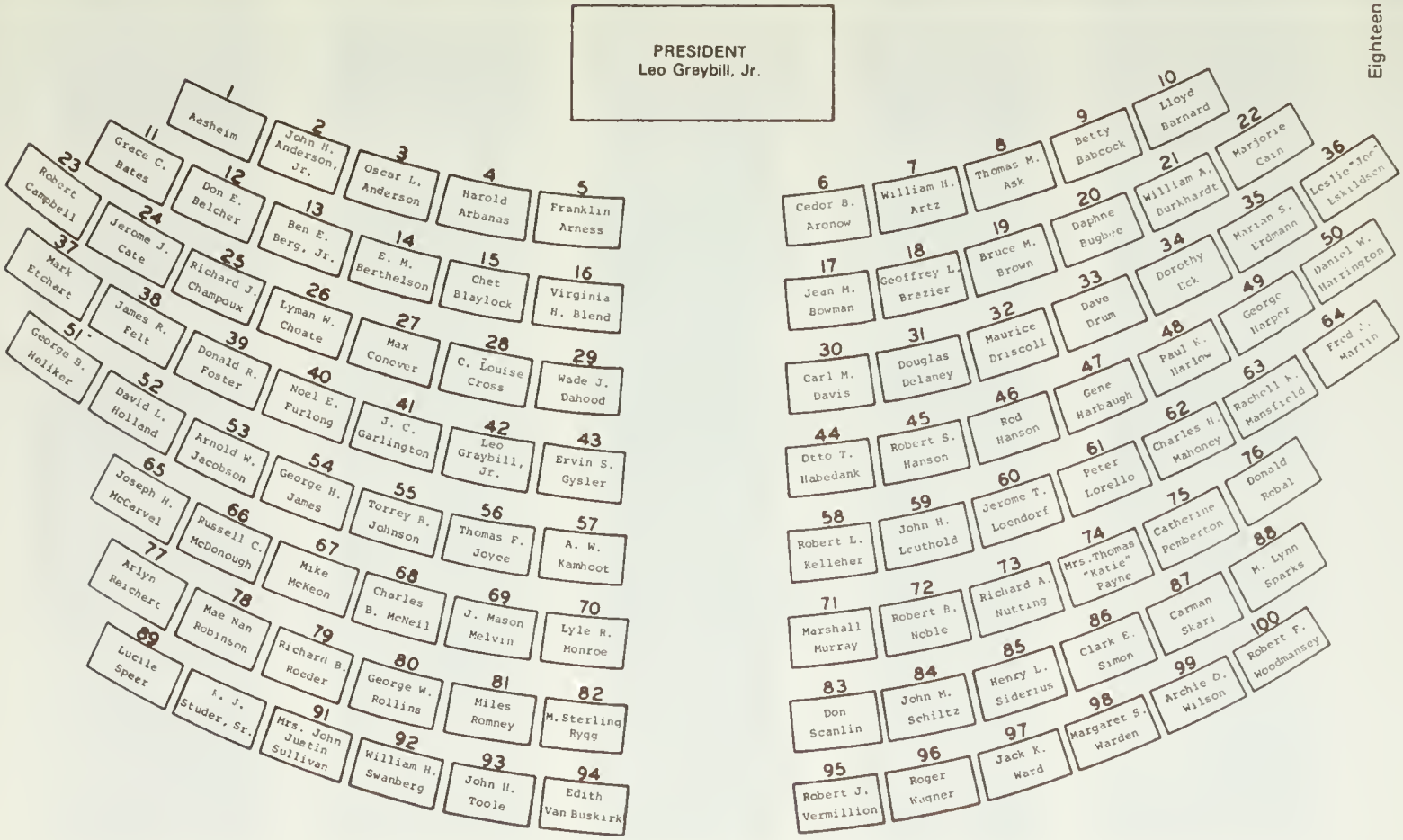
(D) Great Falls, Dist. 13

ARCHIE O. WILSON
(R) Hysham, Dist. 6

ROBT. F. WOODMANSEY
(R) Great Falls, Dist. 13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7 William H. Artz
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77 Arlyn Reichert
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81 Miles Romney
82 M. Sterling Rygg
83 Don Scanlin
84 John M. Schiltz
85 Henry L. Siderius
86 Clark E. Simon
87 Carman Skari
88 M. Lynn Sparks
89 Lucile Speer
90 K. J. Studer, Sr.
91 Mrs. John Justin Sullivan
92 William H. Swanberg
93 John H. Toole
94 Edith Van Buskirk
95 Robert J. Vermillion
96 Roger Wagner
97 Jack K. Ward
98 Margaret S. Warden
99 Archie D. Wilson
100 Robert F. Woodmansey

...high, wide and handsome

Probably no one has been more penetrating in peeling away the "mythology" of Montana than the late Joseph Kinsey Howard. In his epic "Montana High, Wide and Handsome," written almost a quarter of a century ago, Howard earned widespread renown for targeting in on the problems of today's Montana.

Not so well chronicled, however, was his love of the Treasure State, and his wish to be a prophet of its future:

" . . . In Montana everyone has a quarter of a square mile (ten times as much space as the average American can claim for himself) in which to stomp about and shout, or just to lie and look up at the vibrant blue-green sky. It always reaches just beyond the horizon, and the horizon seems always to be still within Montana.

"Between the sky and the horizon's edge is rainbow's end. It is there the sun rests in intermission while the spirit dancer of the aurora thread their way, silent and a-tiptoe, through the grave measures of their minuet; there too are the Sand Hills, where wander shades of dead warriors in perpetual pursuit of phantom buffalo. There is the goal of all the mysterious old trails—the green well-watered pasture, the brimming reservoir, the never-failing field of wheat. Even peace is there . . .

"The sunset holds infinite promise. Fire sweeps up from behind the Rockies to consume the universe, kindles the whole horizon, and all the great sky is flame; then suddenly it falters and fades atop the distant peaks and the lonely buttes, ebbs and is lost in secret coulees. The Montanan is both humbled and exalted by this blazing glory filling his world, yet so quickly dead; he cannot but marvel that such a puny creature as he should be privileged to stand here unharmed and watch . . . "

It is the respectful hope of Montana's rural electric cooperatives that Joseph Kinsey Howard's love of his adopted state may provide inspiration for our Montana of tomorrow . . . and the deliberations of the 1972 Constitutional Convention.

rural
electrics
make
a
strong
rural
Montana
and
a
strong
rural
Montana
benefits
all
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22

TOPIC: Excerpts from the *Montana Public Affairs Report*
AUTHOR: Elizabeth Eastman
NOTE: Miss Eastman is Research Associate with the Bureau of Government Research at the University of Montana. The following excerpts were selected from the January 1972 issue of the *Montana Public Affairs Report* which is published by the Bureau.

As Montana enters its ninth decade under the original statehood constitution, strong currents of governmental reform are at work. Pressure for revitalization of state government led to public approval of a constitutional convention and of a comprehensive executive reorganization amendement in November 1970. Implementation of the 19-department executive reorganization plan is taking place concurrently with the meeting of the constitutional convention.

Montana's constitution was written in 1889 and provides a framework for government that remains substantially unaltered in spite of some 37 amendments. It is not surprising that state and local officials have found it increasingly difficult to meet their responsibilities and cope with present-day problems with a political apparatus largely inherited from the 19th century. Urban and community problems have become more and more complex and are compounded by sometimes restrictive, sometimes ambiguous constitutional provisions. Public attention has also been focused on the need for modernizing the legislative and judicial branches of government. The 1971 legislature, unable to resolve major questions of tax policy, and plagued with legislative reapportionment problems, held two special sessions in March and June 1971. The fiscal question was finally referred to the electorate in November 1971, and Montana voters rejected by a 2-1 margin a general retail sales tax--Montana is one of the handfull of states that does not use this source of state revenue--opting instead for an increase in state income taxes. The reapportionment issue was finally decided in federal district court. The court declared the first apportionment plan adopted by the 1971 legislature unconstitutional, and the legislature approved a revised plan during the second special session. This plan was also challenged, but the judges approved its use for the election of delegates to the constitutional convention "because of the imminence of the selection of delegates . . ." Later, in November 1971, the court's final ruling upheld the second apportionment plan for legislative elections as well.

. . .

A total of 274 democrats and 234 republicans were candidates for nomination in the primary election held September 14, 1971. In addition to the democratic and republican nominees, 32 independent and four new reform party candidates competed for convention seats in the special general election held November 2, 1971. Of the 100 delegates elected at the general election 58 are democrats, 36 are republicans and six are independents. The 81 men and 19 women elected range in age from 24 to 72 years; the delegates' average age is 50 years. Approximately 50 percent of the delegates are native Montanans. Sixty-four percent of the delegates have had experience in a public or political party office: 19 percent are former legislators; 36 percent have held a city or county office; and nine percent have held office in one of the two major political parties.

Comparing the educational level of constitutional convention delegates with that of legislators serving in the 1971 session, 55 percent of the delegates graduated from a college or university and 34 percent of these hold at least one graduate degree. Another 22 percent of the delegates have attended an institution of higher learning or business college. In 1971, 44 percent of Montana's legislators had graduated from a college or university and 21 percent had received at least one graduate degree. Twenty-eight percent had attended an institution of higher learning or business college.

Attorneys comprise the largest occupational group with 24 percent of the delegates in this category. The other significant

occupational groups are farming-ranching (20%), business (16%) and education (13%). These figures contrast sharply with the dominant occupations of Montana legislators (all figures are percentages):

	Agriculture	Professions (Law, Medicine, Education, Engineering)
Senate, 1927-1967	36.0-50.0	14.3-29.0
House, 1927-1967	32.0-43.6	13.8-18.2
Senate, 1969	42.0	25.0
House, 1969	33.0	24.0
Senate, 1971	50.5	21.0
House, 1971	33.1	17.3
ConCon, 1971-72	20.0	41.0

In every legislative session over the 44 year period 1927-1971 agriculture was clearly the dominant occupation. In the 1971-72 constitutional convention this pattern is reversed. The turn-about may be attributed partially to the interest of many lawyers in rewriting the state's constitution and to the 1971 reapportionment which further reflects the population shift from rural to urban. Elections from the same districts to the 1973 legislative assembly will furnish a stronger basis for such comparison, and perhaps indicate whether the constitutional convention attracted a particular type of candidate different from those seeking legislative seats.

TOPIC: Student-revised Constitution. 1970
SOURCE: Students at Helena Senior High School

In File #9, Don Byrd of Helena Senior High School described a classroom constitutional revision project involving sixteen students during a semester in 1970. Attached is a copy of the students' constitution, along with their introduction, summary and bibliography.

INTRODUCTION

The following report and revised copy of the Constitution of the State of Montana is the result of one semester's class work by sixteen high school students of Helena, Montana. What began as an exercise in state government became a document we want to share with others; not because of its brilliance, but because it was a re-enactment of a very old American tradition; the constitution convention. We managed to survive the conflicts and sometimes acrimonious arguments that accompanied the debate and deliberations with a feeling of accomplishment and pride in our work.

Once the need of constitutional revision was recognized and the actual work begun, it became obvious that tradition and custom had to be broken to satisfy the demands made upon government today. We attempted to make those changes in the light of Montana's problems.

Our class addressed itself only to an actual revision of the present Constitution and it appeared that there were four ways in which to do it: one, accept the revision of the Legislative Council; two, adopt the salient features of the Model State Constitution; three, relegate all the difficult portions to statutory law and thereby sidestep the issue; and four, familarize ourselves with the present Constitution, identify and recognize the problems which it causes or fails to alleviate, make comparative studies of other state constitutions and draft a new constitution from our labors. We chose the latter method and must, therefore be responsible for the errors and omissions it may contain.

Our appreciation is extended to the Legislative Council of Montana and to those who have contributed so much effort toward constitutional revision.

We submit this constitution and report to those who read it in the hope that the adults of Montana understand the implications of students revising our state Constitution.

Kathy Huppe
Carol Johnson
Debi Beall
Dick Hausken
Jim Willard
John Pistelak

Dea Kindred
Cindy Radley
Lori Gibson
Steve Carney
John Yalovich

Donald L. Byrd
Instructor

Janet Rintala
Virginia Nolte
Dave Holzworth
Ray Dana
Alan Thorbjornson

Constitutional Revision

Our committee has attempted to eliminate all the extraneous matters of the present Constitution, to make those revisions necessary for state government to meet today's needs, and to do so as briefly and clearly as possible. A constitution is the people's calling forth of government, and as such should be first understandable by the ordinary citizen rather than a mysterious, complicated, legalistic document comprehendable only to lawyers.

Article I of the present Constitution, dealing with the state's boundaries, was stricken for two reasons: obsolensence and the fact that state boundaries are fixed by federal law which cannot be effected by state action.

Article II, military reservations, was likewise deleted because of its obsolesence today.

Article III, containing the bill of rights, was greatly reduced. Many of the original sections were statutory law and therefore removed; others reflected territorial conditions and are no longer applicable. We agreed with the eminent position in the Constitution of the people's rights and placed it first in our version.

Protection against government's invasion into the rights of its citizens is more adequately provided in our Constitution, but only because we have had the eighty years of experience which have transpired since Montana's Constitution was adopted. In section four the legal rights of individuals is protected against legislative and executive investigations the same as those rights would be in a court of justice. The committee also felt that delay of justice is equally repugnant as denial of justice, so section four provides that trials be held within one year of the event which demanded adjudication. Section ten protects the privacy of the individual by controlling electronic bugging and wiretapping.

The recent attention being paid to a clean environment is reflected in Section 1' At first the committee felt that an entire article should be given to exological guarantees; however, it was finally decided to place this as a separate right under the bill of rights.

Article IV of the present Constitution was omitted; it specifically provided for a distribution of powers among the legislative, executive and judicial branches of government. The class felt this article was superfluous in that this vital seperatio of power is explicitly covered in the individual articles which deal with each branch.

Substanative and sweeping changes were made with the legislative article. A unicameral legislature was adopted, even after talking to some current legislators who explained the advantage of one house checking the other. The committee felt that it would provide for a cheaper and more expeditious legislative body. The number of legislators was reduced to forty members, each to be elected from single member districts.

Other major changes in the legislative article are:

1. Dropping the county requirements for the direct initiative and popular referendum while increasing the percentage of voters.

2. Representative terms of four years.

3. An annual session, not to exceed 80 days.

4. Reduction of 46 sections to 19, mostly on the basis of relegating many of the sections to statutory law (where they belong).

5. A general section allowing the assembly to make its own rules, not state them in the Constitution.

6. Inclusion of an "elastic clause" nearly identical to Article I, Section 8 of the Constitution of the United States.

The executive branch was also greatly altered. The only two elected state officials would be the governor and lieutenant governor, both of who would belong to the same political party. All other executive officers would be appointed by the governor.

The on-going study of executive re-organization is reflected in this revision: all executive offices and agencies would be organized within not more than twenty principal departments. Both the governor and the legislature would have the perogative to reallocate offices and their functions.

Perhaps every constitutional convention has had one question that divided its members into two hostile factions, a seemingly insurmountable impasse. The judicial article was our's. The specific question was whether to have the inferior (district) court judges appointed or elected. The committee was evenly divided, and the testimony of a supreme court justice, three district judges and several local lawyers was also evenly divided on this question. After nearly two weeks of debate a compromise similar to the Missouri Plan was accepted. Both sides basic concern was to free the judicial branch from political influence.

The state Supreme Court was unanimously made appointive, a uniform judiciary was accepted, and justice of the peace courts were deprived of any constitutional basis.

Voting qualifications were changed by lowering the voting age to eighteen, reducing the residency requirements to three months, and eliminating any residency requirements for voting in national elections. Another obvious change is the omission of disenfranchisement of those citizens convicted of a felony. The committee acknowledged the right of the state to prohibit an imprisoned person's suffrage right. However, we felt that the right of suffrage is inalienable and there exists the serious question of the constitutionality of the state withdrawing such rights or of the governor restoring them.

The committee deleted much of the remainder of the present Constitution on the basis of its statutory nature. Only wanting to include those matters of fundamental law necessary to the foundation of government, and using the United States Constitution as a guide, the committee concluded its work with the writing of brief articles on local government, education, finance and the amending process.

We feel that our Constitution is a great improvement over the present, that it would provide for a more effective and efficient operation of government, and that it more thoroughly represents the changes that are necessary for the state of Montana to once again participate as an equal member of the federal system.

PREAMBLE

We, the people of the state of Montana, recognizing the rights and duties of this state as a part of the federal system of government, reaffirm our adherence to the Constitution of the United States of America; and in order to assure the state government power to act for the good order of the state and the liberty of the people, we do ordain and establish this constitution.

ARTICLE I

Bill of Rights

Section 1. Political Power. All political power of this state is inherent in and derived from the people.

Section 2. Inherent Rights. All persons are by nature equally free and independent and have certain inherent rights, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Section 3. Freedoms. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Section 4. Legal Rights. No person shall be deprived of life, liberty, or property without due process of law; no shall his rights to fair and just treatment in the course of legislative and executive investigations be infringed upon. Courts of justice shall be open to every person and a remedy afforded for every injury of person, property, or character; and that right and justice shall be administered without sale or denial within one year of the occurence.

Section 5. Habeas Corpus. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or actual or imminent invasion, the publice safety requires it.

Section 6. Rights of Accused Persons. In all criminal prosecutions, the accused shall have the right to demand a specific statement of the charges against him, and to appear and defend himself in person and by counsel; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and to have a speedy trial by jury in the county or district in which the offense is allegedly to have occurred, unless he shall waive this right in order to secure a change of venue.

Section 7. Double Jeopardy; Excessive Bail. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient surities, except for capital offenses when the proof is evident or the presumption is great. No person shall be compelled to testify against himself in a criminal proceeding.

Section 8. Witness Rights. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. Any deposition authorized by this section may be received as evidence in a trial, if the witness shall be dead or absent from the state.

Section 9. Right to Bear Arms. The right of the people to keep and bear arms shall not be infringed.

Section 10. Searches and Seizures. The people shall be secure in their persons, papers, homes, and effects, from unreasonable searches and seizures, and no warrant to search any place, utilize electronice or other means to intercept oral or other communications, or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, nor without the probable cause, supported by oath or affirmation, reduced to writing.

Section 11. Quartering Soldiers. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, now in time of war, except in the manner prescribed by law.

Section 12. Eminent Domain. Private property shall not be taken or damaged for publice use without just compensation.

Section 13. Sanction. Any citizen or taxpayer may restrain the violation of any provision of this constitution by a suit upon notice to the chief law officer of the state.

Section 14. Environment. Every person shall have the right to a clean and healthy environment.

Section 15. Enumeration of Rights. The enumeration of rights in this article shall not exclude to the people any natural or inherent rights that they shall possess.

ARTICLE II

Rights of Suffrage and Qualifications to Hold Office

Section 1. Voting Qualifications. (1) Except as provided in subsection (2) of this section, a person is qualified to vote for all officers and on all questions if he: has attained the age of eighteen years; is a citizen of the United States; and has resided in this state three months prior to statewide elections; and in the county, district, municipality, or precinct three months prior to elections held in that county, district, municipality, or precinct; there shall be no residency requirement for voting on national elections or issues.

(2) To vote on the creation of a levy, debt, or liability, a person must have the qualifications specified by subsection (1) of this section and must also be a taxpayer listed on the last completed assessment roll.

Section 2. Elections. The legislative assembly shall by law guard against abuses of the right to vote, insure fair, free, and secret elections and provide for the registration of voters, determination of mental competency, absentee voting, and the administration of elections and the nomination of candidates.

Section 3. Elections, Winner. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes shall be declared elected.

Section 4. Office Qualifications. Qualifications for holding any elective office, not determined elsewhere in this constitution will be the same as voting qualificatio

ARTICLE III

Legislative Assembly

Section 1. Legislative Authority. The legislative authority of the state is vested in the legislative assembly, but the people may enact laws by initiative and approve or reject acts of the legislature by the referendum.

Section 2. Initiative and Referendum. (1) Laws may be initiated on all matters except appropriations of money. Initiative petitions must be signed by ten per cent or more of the total legal voters in the state. Each petition must contain the full text of the proposed measure. Petitions must be filed with the secretary of state four months or more prior to the election at which they will be voted upon.

(2) Unless necessary for the immediate preservation of public peace, health, or safety, or an appropriation of money, all acts of the legislature are subject to referendum. A referendum may be ordered by the legislative assembly, or upon petitions signed by five percent or more of the total legal voters of the state. Referendum petitions must be filed with the secretary of state no later than six months after adjournment of the legislative assembly.

(3) Measures shall be submitted to the people as provided by general laws unless otherwise ordered by the legislative assembly.

(4) Measures referred to the people are in full force and effect unless suspended by petitions signed by twenty percent or more of the legal voters in the state. The measures suspended become operative if approved by a majority of the legal voters at an election.

(5) The number of legal voters for each county and for the state is determined by the votes cast for governor in the regular election immediately preceeding filing of petitions for initiative or referendum measures.

Section 3. Apportionment. The legislative assembly shall consist of forty members to be apportioned equally amongst the population. Each legislative district shall elect no more than one representative. The supreme court shall reapportion the legislative assembly following every census.

Section 4. Term of Office. All representatives shall be elected for the term of four years. The assembly shall be divided so that one-half of the representatives shall be elected every two years.

Section 5. Legislative Length and Compensation. No section of the legislative assembly shall exceed 80 legislative days. The compensation of the legislative assembly shall be as provided by law, however, no legislative assembly shall fix its own compensation. Per diem and expense payments to members for days in session shall not be made for more than 80 legislative days.

Section 6. Convening of Legislature. The legislative assembly shall meet at the seat of government at 12:00 noon, on the first Monday of January each year and at other times when convened by the governor.

Section 7. Legislators. No representative shall, during the term for which he shall have been elected, be appointed to any civil office (except notary public or in the militia) under the United States or in this state, shall be a member of the legislative assembly during his continuance in office.

Section 8. Rules. The legislative assembly shall enact rules governing its own proceedure.

Section 9. Immunities and Privileges. The members of the legislative assembly shall in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of the assembly, and in going to and returning from the same; and for any speech or debate in the assembly they shall not be questioned in any other place.

Section 10. Impeachment Powers. The sole power of impeachment shall be vested in the legislature; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the legislature sitting for that purpose, and the members shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the members elected.

Section 11. Impeachment. Officers of the state shall be liable to impeachment by the legislative assembly for high crimes and misdemeanors, or malfeasance in office.

Section 12. Removal from Office. All officers not liable to impeachment shall be subject to removal for misconduct or malfaesance in office in such a manner as may be provided by law.

Section 13. Bills. No bill shall be so altered or amended on its passage throught the assembly as to change its original purpose.

Section 14. Laws. The legislative assembly shall not pass local or special laws where a general law can be made applicable.

Section 15. Except as otherwise provided in this constitution, no law shall extend the term of any public officer or diminish his salary or emolument after his election or appointment.

Section 16. Public Funds Investment. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guarians or trustees in the bonds or stock of any private corporation.

Section 17. Veto. A bill shall become law if not acted upon by the governor within ten days after it is presented to him. A vetoed bill shall become law if repassed by two-thirds of the members of the assembly.

Section 18. Continuity of Government. The legislative assembly, in order to insure continuity of state and local governmental operations, may enact laws;

(1) to provide for prompt and temporary sucession to the powers and duties of elected and appointed publice officers who die or are incapacitated;

(2) to adopt other measures that may be necessary to insure the continuity of governmental operations.

Section 19. General Legislative Powers. The legislative assembly shall be empowered to enact laws necessary and proper to fulfill functions of the state and provisions of the foregoing sections of this article.

ARTICLE IV

The Executive

Section 1. Executive Power. The excutive power of the state shall be vested in a governor.

Section 2. Election of Governor. The governor shall be elected, at the regular election every other odd numbered year, by the direct vote of the people, for a term of four years beginning on the first day of January next following his election.

Section 3. Lieutenant Governor. There shall be a lieutenant governor who shall be elected at the same time, for the same term, and in the same manner, as the governor; the votes cast in the general election for the nominee for the governor shall be deemed cast for the nominee for lieutenant governor of the same political party. He shall perform such duties as may be prescribed by law.

Section 4. Executive Powers. The governor shall be responsible for the faithful execution of the laws. He shall be commander in chief of the armed forces of the state and may call out such forces to execute the laws, suppress or prevent insurrection or lawless violence or repel invasion. He shall, at the beginning of each session, and may, at other times, give to the legislature informaiton concerning the affairs of the state and recommend to its consideration such measures as he shall deem expedient.

The governor may grant reprieves, communtations and pardons, after convictions, for all offenses, subject to regulation by law as to the manner of applying for the same. The legislature may, by general law, authorize the governor to grant pardons before conviction, to grant pardons for impeachment and to restore civil rights denied by reason of conviction of offenses by tribunals other than those of this state.

Section 5. Administrative Departments. All executive and administrative offices, agencies and instrumentalities of the state government, and their respective functions, powers and duties, shall be allocated by law among and within not more than twenty principal departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial and temporary agencies established by law may, but need not, be allocated within a principal department. The legislature shall by law prescribe the functions, powers and duties of the principal department and of all other agencies of the state and may from time to time reallocate offices, agencies and instrumentalities and instrumentalities among the principal department, may increase, modify, diminish or change their functions, powers and duties and may assign new functions, powers and duties to them; but the governor may make such changes in the allocation of offices, agencies and instrumentalities, and in the allocation of such functions, powers and duties, as he considers necessary for efficient administration. If such changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the legislature while it is in session, and shall become effective, and shall have the force of law, sixty days after submission, or at the close of the session, whichever is sooner, unless specifically modified or disapproved by a resolution concurred in by a majority of all the members.

Section 6. Veto Power. The governor may veto any bill passed by the Legislative Assembly except a bill proposing an amendment to this constitution. The governor may reduce or strike out any item in a supplementary appropriation bill. Each item or portion of an item disapproved shall be subject to the same procedure as a bill vetoed by the governor.

Section 7. Executive Officers; Appointment. The governor shall appoint and may remove the heads of all administrative departments. All other officers in the administrative service of the state shall be appointed and may be removed as provided by law.

Section 8. Succession to Governorship. When the office of governor is vacant, the lieutenant governor shall become governor. In the event of the adsence of the governor from the State, or his ability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon the lieutenant governor during such absence or disability.

When the office of lieutenant governor is vacant, or in the event of the absence of the lieutenant governor from the state, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon such officers in such order of succession as may be provided by law.

In the event of the impeachment of the governor or of the lieutenant governor, he shall not exercise the powers of his office until acquitted.

ARTICLE V

The Judiciary

Section 1. Judicial Power. The judicial power of the state shall be vested in a supreme and such inferior courts of limited jurisdiction as may from time to time be established by law.

Section 2. Supreme Court. The supreme court shall be the highest court of the state and shall consist of a chief justice and four associate justices.

Section 3. Appointment of Justices. The governor shall appoint, with the approval of the legislative assembly, the chief justice and associate justices of the supreme court.

The terms of office shall be for ten years and shall be staggered with one justice being appointed every two years. Vacant offices shall be filled by appointment and approval for the remainder of the term. Justices may be re-appointed.

No person shall be eligible to the office of justice of the supreme court unless he be licensed to practice law in the State of Montana.

Section 4. Appointment of Judges and Tenure for Inferior Courts. District judges shall be appointed by the supreme court. Judges shall be appointed for eight year terms, subject to rejection or retention by the voters of their district at the second Congressional election after their appointment. One-eighth of the judges to be appointed each year.

Section 5. Pay and Procedure of Removal. The legislative assembly shall by law determine the salary of all supreme court and inferior court judges which shall not decrease during their term of office. The legislative assembly shall determine by law the procedure of removal of a judge from office for misconduct, crimes of misdemeanors.

Section 6. Uniformity of Courts. All laws relating to courts shall be uniform in operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

Section 7. Administration of Courts. The chief justice of the supreme court shall be the administrative head of the judicial system. Such assistants as he shall need shall be provided for by the legislative assembly.

Section 8. Rulemaking Power. The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislative assembly by a two-thirds vote of all the members.

Section 9. Jurisdiction of the Courts. The supreme courts shall have appellate jurisdiction in all cases arising under this constitution and the Constitution of the United States and in all other cases as provided by law. All other courts of the state shall have original and appellate jurisdiction as provided by law which jurisdiction shall be uniform in all geographical departments or districts of the same court.

ARTICLE VI

Local Government

Section 1. Organization. The legislative assembly shall provide by general law for the government of civil divisions and for methods of incorporating, merging, consolidating and dissolving such civil divisions and of altering their boundaries.

Section 2. Powers. A county or civil division may exercise any legislative power which is not specifically denied to it by its charter, is not denied to counties or civil divisions generally, and is within limitations as the legislative assembly may establish by law. This shall not include the power to enact private or civil law nor to administer the punishment incident to such law, nor shall include power to define and provide for the punishment of a felony.

ARTICLE VII

Education

Section 1. Free public Schools. The legislature shall provide for the maintenance and support of a system of free public schools open to all children in the state and shall establish, organize and support such other public educational institutions, including public institutions of higher learning, as may be desirable.

ARTICLE VIII

Finance

Section 1. Revenue, Taxation. Revenues shall be raised by taxation to be effected by law.

Section 2. Appropriations, Payment of Taxes. All taxes levied for state purpose shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

Section 3. Proceeds of Special Taxes. No appropriation shall allocate to any object the proceeds of any particular tax or fund or percentage thereof, except when required by the federal government for participation in federal programs.

Section 4. Debt. No debt shall be contracted by this state unless the debt shall be authorized by law for purposes specified therein.

Section 5. Budget. The governor shall submit to the legislative assembly a budget estimate setting forth all proposed expenditures and anticipated income of all the departments and agencies of the state.

ARTICLE IX

Amendment

Section1. Amending Process. The constitution may be amended by a majority vote of the people.

Section 2. Methods of Amendment. Proposed amendments may be placed on the ballot by the legislature, by initiative, or by a constitutional convention whose procedures and composition shall be provided by law.

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The following state constitutions were used:

Constitution of the State of Nebraska, 1968.
The Constitution of the State of Michigan, 1963.
Consitution of Maryland as Adopted by the Convention, 1968.
The Constitution of the State of Hawaii
The Constitution of Alaska

TOPIC: Student-revised Constitution, 1972
SOURCE: Montana YMCA Youth Constitutional Convention

The constitution attached is the product of high school youths of Billings, Missoula, Bozeman, Great Falls, Butte, Helena, Brockton and Joliet who have been participating in the YMCA Youth and Government Program of Montana.

According to T. Alan Pattison, director of the program, more than 100 young people spent several months in their home communities studying the constitution, talking with citizens and advisers, sharing ideas on what the constitution should contain, and preparing proposals for presentation at the YMCA Youth Constitutional Convention conducted in the House of Representatives chambers of the State Capitol January 5, 6, 7 and 8, 1972.

For information concerning the schedule and rules adopted for the YMCA Youth Constitutional Convention, refer to File #8.

CONSTITUTION

of the

STATE OF MONTANA

(Montana YMCA Youth Constitutional Convention, January 8, 1972)

PREAMBLE

We, the people of Montana, grateful for the blessings of liberty, in order to improve upon the advantages of state government, ordain and establish this Constitution, January 8, A. D. 1972.

ARTICLE I.
BILL OF RIGHTS

Section 1. Political Power. All political power of this state is inherent and derived from the people.

Section 2. Inherent Rights. All persons, regardless of race, creed, color, national origin or sex, are by nature equally free and independent and have certain inherent rights; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Section 3. Freedoms. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the people peaceably to assemble and to petition the government for a redress of grievances.

Section 4. Legal Rights. No person shall be deprived of life, liberty, or property without due process of law; nor shall his rights to fair and just treatment in the course of legislative and executive investigations be infringed upon. Courts of justice shall be open to every person and a remedy afforded for every injury of person, property, or character; and that remedy shall be administered without sale or denial. All civil litigation must appear on a court calendar within one (1) year of the occurrence.

Section 5. Habeas Corpus. The privilege of the writ of habeas corpus shall not be suspended unless the security of the state is threatened and public safety requires it.

Section 6. Rights of Accused Persons. In all criminal prosecutions, the accused shall have the right to demand a specific statement of the charges against him, and to appear and defend himself in person and by counsel; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and to have a speedy trial by jury in the county or district in which the offense is allegedly to have occurred; unless he shall waive this right in order to secure a change of venue. No person shall be compelled to testify against himself in a criminal or civil proceeding.

Section 7. Double Jeopardy; Excessive Bail. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption is great.

Section 8. Prosecutions. No person shall be tried for a felony without presentment or indictment by the grand jury, or an information field under oath by the prosecuting officer of the court, except persons on active duty in the military when tried by courts martial.

Section 9. Ex Post Facto. No ex post facto law nor law impairing the obligation of contracts, or making special discriminations or exceptions, shall be passed by the legislative assembly.

Section 10. Punishment. Those people convicted shall not be subject to cruel or unusual punishment. All citizen rights shall be restored upon completion of sentence.

Section 11. Witness Rights. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. Any deposition authorized by this section may be received as evidence in a trial, if the witness shall be dead or absent from the state.

Section 12. Right to Bear Arms. The right of the people to keep and bear arms shall no be infringed.

Section 13. Searches and Seizures. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant shall be given to search any place, utilize electronics or other means to intercept oral or other communications or seize any person or object without probable cause, supported by oath or affirmation, reduced to writing.

Section 14. Quartering Soldiers. The military shall always be in strict subordination to the civil power; no soldier shall be quartered in any house without the consent of the owner, except in time of war, and only in the manner prescribed by law.

Section 15. Eminent Domain. Private property shall not be taken or damaged for public use without just compensation; nor shall any person be relocated without just compensation.

Section 16. Sanction. Any citizen or taxpayer may restrain the violation of any provision of this constitution by a suit upon notice to the chief law officer of the state.

Section 17. Environment. Every person shall have the right to a clean and healthy environment.

Section 18. Enumeration of Rights. The enumeration of rights in this article shall not exclude to the people any natural or inherent rights that they possess.

Section 19. Childrens Rights. Every child and youth shall have all rights of the people of the State except for those rights specifically precluded by law.

ARTICLE II.
SUFFRAGE

Section 1. Voter Eligibility. Any person shall be eligible to vote in any election who has attained the age of eighteen (18); has been a resident of the State of Montana for one hundred and twenty (120) days to vote in a state election; a resident of the county or district in which he shall vote in a local election, and is a citizen of the United States of America.

Section 2. Registration. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved.

ARTICLE III.
LEGISLATIVE

Section 1. Legislative Authority. The legislative authority of the state shall be vested in a legislative assembly, consisting of one chamber; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article III, Section 19, of this constitution, independent of the Legislative Assembly, and also reserve power, at their own option, to approve or reject at the polls, any act of the Legislative Assembly, except as to laws necessary for the immediate preservation of the public peace, health, or safety, and except as to laws relating to appropriations of money, and except as to local or special laws, as enumerated in Article III, Section 19, of this constitution. The first power reserved by the people is the initiative and eight percent of the legal voters of the state shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight percent of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petition shall be filed with the secretary of state, not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered either by petition signed by five per cent of the legal voters of the state, provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent of the legal voters in such county, or, by the legislative assembly as other bills are enacted.

Referendum petitions shall be filed with the secretary of state, not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by initiative or referendum petitions.

All elections on measures referred to the people of the state shall be had at the biennial regular general election, except when the legislative assembly, by a majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen percent of the legal voters of a majority of the whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the initiative or referendum shall be the basis on which the number of legal petitions and orders for the initiative and for the referendum shall be filed with the secretary of state; and in submitting the same to the people, he and all other officers, shall be guided by the general laws and the act submitting

this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the initiative shall be as follows:

"Be it enacted by the people of Montana..."

Section 2. Terms of Office. Legislators shall be elected for the term of two years, except as otherwise provided in this constitution. Each member shall be nominated and elected in a non-partisan manner and without any indication on the ballot that he is affiliated with or endorsed by any political party or organization.

Section 3. Eligibility. No person shall be a legislator who shall not have attained the voting age and, who shall not be a citizen of the United States, and who shall not have been a resident of the state. Residency requirements of legislators shall be established in a manner prescribed by law.

Section 4. Convening. The legislative assembly shall convene each year on the second Wednesday of January. The legislative assembly shall be a continuous body during the term for which members of the legislative assembly are elected.

The Governor may convene the legislative assembly alone in special session by a proclamation stating the purpose of the session; and only business encompassed by such purpose, together with any impeachments or confirmation of appointments shall be transacted.

Special sessions of the legislative assembly may be called into session by a one third affirmative vote of the legislative assembly.

Section 5. Beginning of Term. The term of service of the legislators shall begin the day the legislative assembly convenes, unless otherwise provided by law.

Section 6. Restrictions. No legislator shall, during the term for which he shall have been elected be appointed to any civil office under the state; and no member of congress or other person holding an office (except notary public, or in the militia) under the United States or this state, shall be a member of the legislative assembly during his continuance in office.

Section 7. Officers. The legislative assembly shall at the beginning of each regular session and at such other times as may be necessary elect one of its members president and one of its members pro tempore to serve in the absence of the president. The legislative assembly shall choose its other officers and shall judge of the election, returns and qualifications of its members.

Section 8. Rules. The legislative assembly shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the legislative assembly of a free state.

A member expelled for corruption shall not thereafter be eligibile to the legislative assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

Section 9. Journal. The legislative assembly shall keep a journal of its proceedings, and may, in its discretion, from time to time publish the same, except such parts as require secrecy, and the ayes and nays on any question shall, at the request of any two members, be entered in the journal.

Section 10. Attendance. A majority of the legislative assembly shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as the assembly may prescribe.

Section 11. Open Assemblies. The sessions of the legislative assembly shall be open, unless the business is such as requires secrecy.

Section 12. Impeachment. The legislative assembly shall have the sole power of impeachment of executive officers. The legislative assembly shall bring charges to the Supreme Court. The president of the assembly will act as the prosecuting attorney, and the defendent has the right to counsel. The sole power of impeachment of a member of the legislative assembly shall rest in the assembly; the concurrence of a majority of the members being necessary to exercise the power of impeachment.

Impeachment of members of the legislature shall be tried by the committee on Judiciary of the legislative assembly and the legislators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without a concurrence of the members of the committee on the Judiciary of the assembly. If the defendent is a member of the Judiciary Committee, he shall not sit in judgement on his case.

Treason, felony, malfeasance in office, violation of their oath of office, and breach of peace, or insanity duly determined by the courts, shall be grounds for impeachment.

Section 13. Committees. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

No bill shall become a law except by a vote of the majority of the members of the legislative assembly. The legislative assembly may override the Governor's veto by a two-third vote.

Section 14. Passage of Bills. No law shall be passed except by bill and no bill shall be so altered or amended on its passage through the Assembly as to change its original purpose.

Section 15. Officers and Employees. The legislative assembly shall prescribe by law the number, duties and compensation of the officers and employees of the assembly; and no payment shall be made from the state treasury, or be in any way authorized to any such person, except to an acting officer or employee elected or appointed in pursuance of law.

The legislative assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise, or interfere with any municipal functions whatever.

Section 16. Immunity. The members of the legislative assembly shall, in all cases, except treason, felony, violation of their oath of office, and breach of peace, be privileged from arrest during their attendance at the sessions of the assembly and in going to and returning from the same; and for any speech or debate in the assembly they shall not be questioned in any other place.

Section 17. Emergency by Enemy Attack. The legislative assembly in order to insure continuity of state and local government operations in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated.
(2) To adopt other measures that may be necessary to insure the continuity of governmental operations.

Such laws shall be effective only during the emergency that affects a particular

office or governmental operation, and such laws may deviate from other provisions of the Montana Constitution, including but not limited to the following sections:

(1) Section 2, Article X, seat of regional government
(2) Section 13, Article V, succession of governor
(3) Section 11, Article V, special legislative sessions
(4) Section 4, Article III, length of legislative session
(5) Section 10, Article III, quorum to do business in the legislature
(6) Section 2, Article X, location of regional offices
(7) Section 10, Article V, duties of executive officers of the state
(8) Section 8, Article V, appointments by governor

Section 18. Extension of Terms of Office. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or diminish his salary or emolument after his election or appointment: provided that this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

Section 19. Local Laws. The legislative assembly shall pass no local laws.

Section 20. Collection of Debts. The legislative assembly shall have the power to collect all debts owed to the state.

Section 21. Appropriations. The legislative assembly shall have the power to appropriate funds necessary to pay debts incurred by the state.

Section 22. Membership. The legislative assembly shall not consist of more than seventy (70) and no less than fifty (50) members.

ARTICLE IV.
APPORTIONMENT AND REPRESENTATION

Section 1. Congressional Apportionment. When a new apportionment shall be made by Congress, the legislative assembly shall divide the state into congressional districts accordingly.

Section 2. Legislative Apportionment. The legislative assembly shall be apportioned on the basis of population in single member districts. The districts shall be determined on the basis of the most recent United States census. The Supreme Court will reapportion with a concurrence of the majority of the legislative Assembly.

Section 3. Single Member Districts. The single member districts may be altered from time to time as public convenience may require. A legislative district shall be contiguous and compact as may be.

ARTICLE V.
EXECUTIVE

Section 1. Executive Officers. The Executive Department will consist of a Governor, Lieutenant Governor, Secretary of State and Attorney General. Each will hold office for four (4) years, or until the newly elected official is qualified to replace him no later than the first Monday in January following his election. All executive officers can serve for not more than three consecutive terms. The Attorney General shall be appointed by the Governor with the approval of the legislative assembly.

Section 2. Executive Office. There shall be under the Governor's direction an executive office which consists of an Executive Assistant, which is the overseer of the offices of Administration, Schedule, Information, Legal Affairs, Legislation and Cabinet Affairs. There shall be also four (4) management services, those being a Central Budget Agency and the State-Federal Relations Agency, Central Personnel Agency, and Planning and Programs Agency. The Governor shall have the power to establish a cabinet of not more than twenty (20) department heads whom he will appoint to advise him on such matters as he shall deem necessary.

Section 3. Governor - Lieutenant Governor. The Governor and Lieutenant Governor, running on a joint ticket, and the Secretary of State shall be elected by the qualified voters of the state at the time and place of voting for members of the Legislative Assembly. The persons having the highest number of votes respectively for the office shall be elected, but if two or more persons should have equal and highest number of votes, the Legislative Assembly, at its next regular session, shall by joint ballot, elect one of such persons for said office. The returns of the elections of these officers shall be made as prescribed by law.

Section 4. Eligibility. No person shall be eligible to the positions of Governor, Lieutenant Governor, Secretary of State and Attorney General unless he shall have attained the voting age. To be eligible to the office of Attorney General he must also have been admitted to practice law in the Supreme Court of the State and the United States. Each of the above officers must have resided in the state at least five years and be a citizen of the United States.

Section 5. Salaries. The salaries of executive officers shall be fixed by law temporarily. The Governor, Secretary of State and Attorney General shall quarterly, as due, during their continuance in office, receive compensation for their services. The compensation for their services respectively rendered in any official capacity or employment during his term of office and an officer's salary shall not be increased or decreased during his term of office. No officer mentioned shall receive any fees for their own use, but all fees fixed by law for the performance of any officer of any official duty shall be collected in advance and deposited with State Treasurer quarterly to credit state. No officer mentioned shall be eligible to hold and other public office.

Section 6. Executive Power. The supreme executive power of the state shall be vested in the Governor, who shall see that the laws are executed.

Section 7. State Militia. The Governor shall be Commander in Chief of all State militia, and has the power to call out these troops in order to execute laws, suppress insurrection, or to repel invasion.

Section 8. Appointive Powers. The Governor shall nominate, and with consent of the Legislative Assembly, appoint all officers to offices established by this constitution or created by law whose election or appointment is not likewise provided for. If any of the elective offices shall be vacated, the Governor shall appoint a replacement until his successor shall be elected for appointment. The State Legislature shall have the power to organize any office or commission not stated in this constitution.

Section 9. Executive Clemency. The Governor will have the power to grant pardons, remit fines and forfeitives and grant commutation of punishment and respites after conviction and judgement to any offenders concerning any state laws except in cases of impeachment after approval of State Board of Pardons.

The Governor shall be advised by the Board of Pardons which is prescribed and appointed by the legislative assembly.

Section 10. Executive Duties. The Governor may require information in writing from the members of the Executive Department upon any subject relating to the duties of their respective offices. This will be given under oath, and at any time, the Governor can appoint a committee to investigate and report the condition of any executive office or state institution. The Governor shall be present at the beginning of each legislative assembly and give an address on the needs of the state. The Governor shall present at the beginning of each assembly a statement with vouchers of the expenditures of all money belonging to the state and paid out by him, and present estimates of the amount of money requiring to be raised by taxation for all purposes of the state.

Section 11. Extraordinary Sessions. The Governor may convene a special session of the legislative assembly at any time and must convene a special session upon the written request of two-thirds of all the members of the legislative assembly under procedure provided by law.

Section 12. Veto Power. Every Bill passed by the legislative assembly shall be presented to the Governor. If he approved and signs it, the bill shall become law. If the Governor disapproves, the bill shall be returned to the legislative assembly with his objections. The legislative assembly shall then reconsider the bill, with the Governor's objections. If the legislative assembly then overrides the Governor's veto by two-thirds vote of the members present, it shall become law without the Governor's approval. If the Governor does not act upon a bill within ten (10) days it shall be considered law. If he does not act within ten (10) days after the legislature has adjourned, it is considered vetoed.

Section 13. Executive Succession. In the case of the vacancy of the office of Governor the duties of this office shall desolve upon the following in succession: Lieutenant Governor, Attorney General, and President Pro-tem. If anyone fills a vacancy of office and serves for more than one-half of the term, it shall be counted as a full term.

Section 14. Commissions. All grants and commissions shall be in the name and by the authority of the State of Montana, approved by the Governor, signed by the Governor and the Lieutenant Governor and countersigned by the Secretary of State.

ARTICLE VI.
JUDICIAL

Section 1. Judicial Powers. The judicial power of the state shall be vested is the Legislative Assembly sitting as a Court of Impeachment and in a Supreme Court, District Court, and such inferior courts of limited jurisdiction as the legislature may establish.

Section 2. Supreme Court. The Supreme Court shall be the highest court of the state and shall consist of a Chief Justice and four (4) Associate Justices.

Section 3. Appointment of Justices. The Governor shall appoint, with the approval of the majority of the legislative assembly, the Chief Justice and Associate Justices of the Supreme Court. If a Supreme Court Justice seat becomes vacant and the legislature is not in session, the Governor shall have the power to temporarily appoint a Justice. When the next Legislature is called, the Justice will then be voted upon.

Section 4. Qualifications. No person shall sit as a Justice on the Supreme Court, District Court or inferior court without having been licensed to practice law in the State of Montana and who is not a resident of the State of Montana.

Section 5. District Judges. District Judges shall be appointed by the Supreme Court. Judges shall be appointed for a five (5) year term, subject to rejection or retention by the voters of their district at the general election most nearly preceeding the expiration of their term. If a vacancy occurs in the office of a District Court Judge, an appointee, subject to the same qualifications as set herein, shall serve the remainder of the unexpired term.

Section 6. Salaries and Impeachment. The legislative assembly shall by law determine the salary of all Supreme Court, District Court and inferior court judges which shall not decrease during their term of office. The legislative assembly shall sit in judgement of any impeachment against a judge. By a two-thirds (2/3) majority vote the judge shall be expelled from office. The President of the legislative assembly will preside over the proceedings. The Attorney General shall represent the state in prosecuting.

Section 7. Uniform Judiciary. All laws relating to Courts shall be uniform in operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, shall be uniform, so far as regulated by law.

Section 8. Chief Justice. The Chief Justice of the Supreme Court shall be the administrative head of the Judicial System. Such assistants as he shall need shall be provided for by the legislative assembly.

Section 9. Appellate Jurisdiction. The Supreme Court shall have appellate jurisdiction in all cases arising under this Constitution and the Constitution of the United States and all other cases provided by law. All other courts of the state shall have original and appellate jurisdiction as provided by law which jurisdiction shall be uniform in all geographical departments of the same court.

ARTICLE VII.
LOCAL GOVERNMENT

Section 1. Regions. The State of Montana shall be divided into a certain number of Regions. The present county boundaries may be retained. The legislative assembly shall, at the next legislative session following the ratification of this Constitution, determine the boundaries of these Regions. There shall be no fewer than fifteen (15) and no more than thirty (30) Regions.

Section 2. Regional Government. Government in the Regions and/or Incorporated Municipalities.

(1) Within four (4) years of the ratification of this Constitution, the governments of the Regions shall be instituted and in operation.
(2) Any type of government chosen by the Regions must be ratified by the people of that Region by a majority vote.
(3) The seat of government of each Region shall be determined by the registered voters of that Region in an election after the ratification of this Constitution.

Section 3. Regional Perrogatives. Regions shall have the power to perform any fuction or exercise any power not expressly denied or limited by the General Assembly. No Region shall have the power to define and provide for the punishment of felonies.

Section 4. Indebtedness. No Region shall incurr indebtedness in excess of ten per cent of the least assessed value of all private and public real property in that Region, excluding all state and federally owned real property, without the approval of the people of the Region by two-thirds (2/3) of the votes case.

Section 5. Tax Powers. The Regions shall be empowered to levy any tax not denied them by the Legislative Assembly. A tax shall not be levied without the approval of the people of that Region by a majority of votes cast.

Section 6. Regional Precedence. The Region shall take precedence in any statutory conflict arising between a Region and any Incorporated Municipality within that Region.

Section 7. Interpretation of Law. Any conflict arising between a Region and any Incorporated Municipality within that Region due to differences in policy or interpretation of the law, shall be heard and adjudged by a District Court of the State of Montana of another Region.

Section 8. Official Responsibilities. The legislative assembly shall not prohibit any Region and Incorporated Municipalities within that Region from combining official responsibilities in order to provide for better governmental services. This action shall not be taken without a majority vote in that Region and in the municipality concerned.

Section 9. Amendments. At the next legislative session after the ratification of this Constitution, any annual limit on the number of constitutional amendments shall not apply to amendments for the purpose of limiting the powers of the Regions.

Section 10. Municipalities. The legislative assembly is empowered to formulate the regulations for the incorporation of municipalities.

Section 11. Geographical Contiguity. Whenever the body exercising the legislative power of any Region or Incorporated Municipality shall be comprised of members either nominated or elected from designated areas within the Region or Incorporated Municipality, each area shall consist of compact and contiguous territory and shall be as nearly equal in population as possible.

ARTICLE VIII.
EDUCATION

Section 1. Public Schools. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free and common schools.

Section 2. School Fund. The public school fund shall consist of the proceeds of such lands as have been granted, or will be granted, by the federal government; and also any gift or grant from any person or corporation, for general education purposes; also, all unclaimed estates or distributive shares of estates that may escheat to the state, and all unclaimed shares and dividends of any corporation incorporated under the laws of the state shall be given to the school fund. All money, land, etc. given for general education purposes shall be put into the school fund.

Section 3. School Lands. The direction, control, leasing, and sale of the school lands of the state, and the lands granted or which hereafter be granted for the support and benefit of the various state educational institutions, shall be according to regulations and restrictions as may be prescribed by law.

Section 4. Investment of School Funds. The public school fund and the various funds of the university system shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested under restrictions provided by law.

Section 5. Educational Taxes. The legislative assembly shall have sole power to levy any taxes it deem necessary for the maintenance and operation of the public state educational institutions, except for the property tax. The revenues from these taxes, along with the revenues received from the interest of the public school fund, shall be apportioned to the several school districts of the state in a manner which provides for equal educational opportunity throughout the state.

Section 6. Public Schools Defined. There shall be no sectarian control over educational institutions and no money appropriated for sectarian schools or sectarian purposes. No sectarian or religious test shall ever be required as a condition of employment or admission in any public educational institution.

ARTICLE IX.
REVENUE AND TAXATION

Section 1. Power of Taxation. The rates and methods of taxation of personal and corporate income, or real and personal property, and license tax upon persons and corporations for both local and state purposes shall be determined by law.

Section 2. Property Tax. The word property, as used in this article, is hereby declared to include monies, credits, bonds, franchises, and all matters and things capable of private ownership, but this shall not be construed as to authorize the taxation of the stocks of any company or corporation represented by such stocks that is within the state and has been taxed.

Section 3. Exemptions. The property of the United States, the State, Counties, cities, Towns, School Districts, Municipal Corporations, Regions and Public libraries shall be exempt from taxation; and such other property as may be used exclusively for non-profit purposes, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit; institutions of purely public charity and evidence of debts secured by mortgages of record upon real or personal property in the State of Montana, may be exempt from taxation.

Section 4. Appropriations. The monies paid into the State Treasury shall be appropriated by the legislature, at each session of the legislature. Each agency of the state government shall submit an itemized request for funds and shall explain for what purposes said fund shall be used.

Section 5. Corporations. The power to tax corporations, co-operative corporations, corporate property or labor unions shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school municipal, and other purposes, on real and personal property owned or used by them and not be this constitution exempted from taxation.

Section 6. Local Tax Power. Taxes for cities, towns, and schools purposes may be levied on all subjects and objects of taxation, but the assessed evaluation of any property shall not exceed the valuation of the same propoerty for state and county purposes.

Section 7. Uniformity of Taxes. No county, city, or other municipal corporation the inhabitants thereof not the property therein, shall be released or discharged from their, or it's, proportionate share of state taxes.

Section 8. State Treasury. All taxes levied for state purposes shall be paid into the state treasury and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

Section 9. Public Purpose. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects and upon the same assessed valuation of property within the territorial limits of the authority levying the tax.

Section 10. Fiscal Balance. No appropriations shall be made nor any expenditures authorized by the legislative assembly whereby the expenditures of the states during any fiscal year shall exceed the total tax provided for by law to pay such appropriations of expenditures within the fiscal year. This provision shall not apply to appropriation or expenditures to suppress insurrections, defend the state, or assist in defending the United States in time of war or disasters. No appropriations of public monies shall be made for a longer term than two years.

Section 11. Tax Laws. The Legislative Assembly shall pass all laws necessary to carry out provisions of this Article, and all tax powers not specifically denied by the state are hereby granted to local governments.

Section 12. No Retroactive Taxes. The Legislative Assembly shall not pass any retroactive tax laws.

ARTICLE X.
GENERAL GOVERNMENT

Section 1. Oath or Affirmation. Menbers of the Legislative Assembly and all officers executive, ministerial or judicial, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid, or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly, or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, (and if so pleased by the person taking the oath, he may add 'so help me God.')." And no other oath or declaration shall be required as a qualification for any office or public trust.

Section 2. Regional Seats of Government. All Regional officers shall keep their offices at the Regional seats of their respective Regions.

Section 3. Public Lands. In the disposition of the public lands granted by the United States to this State, preference shall always be given to actual settlers thereon, and the legislative assembly shall provide by law for carrying this section into effect.

Section 4. Constitutional Convention. The Legislative Assembly may at any time, by a vote of two-thirds of the members elected to that body, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the Legislative Assembly shall at its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the Legislative Assembly, and they shall be elected in the same manner, at the same places, and in the same districts. The Legislative Assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the State of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of the members of the Legislative Assembly, and vacancies occurring shall be filled in the manner provided for to fill vacancies in the Legislative Assembly. Said convention shall meet within three (3) months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two (2) nor more than six (6) months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take place.

Section 5. National Guard. The National Guard of the State of Montana shall consist of able bodied citizens of the state between the ages of eighteen (18) and forty-five (45) inclusive, who voluntarily submit themselves to service.

Section 6. National Guard Organization. The Legislative Assembly shall provide by law for the organization, equipment and discipline of the National Guard and shall make such rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Section 7. Financing National Guard. The Legislative Assembly shall provide by law for the maintaining of the National Guard, by appropriations from the treasury of the state.

Section 8. Public Records. The Legislative Assembly shall provide for the safe keeping of the public arms, military records, relics and banners of the state, by law.

Section 9. Commander in Chief. When the Governor shall, with the consent of the Legislative Assembly, be out of the state in the time of war, at the head of any military force thereof, he or she shall continue as commander in chief of all the military forces of the state.

Section 10. Public Lands. All lands of the state that have been, or that may hereafter be, granted to the state by Congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated, or devised; and none of such land, except in pursuance of

general laws providing for such deposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so preserved) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said land shall be classified by the Board of Land Commissioners as follows: first lands which are valuable only for grazing purposes; second, those which are principally valuable for the timber that is on them; third, agricultural lands; fourth, lands within the limits of any town or city or within three (3) miles of such limits; provided that any of such lands may be reclassified whenever, by the reason of increased facilities for irrigation or otherwise, they shall be subject to different classifications.

Section 11. Sale and Lease of State Lands. The lands of the first said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The lands of the fourth class shall be sold in alternate lots of not more than five (5) acres each, and not more than one-half (1/2) of any one tract of such lands shall be sold.

Section 12. Public Lands. All other public lands may be disposed of in such manner as may be provided for by law.

Section 13. Convict Labor. It shall be unlawful for the Warden or other officer of any State Penitentiary or reformatory institution in the State of Montana, or for any state officer to let by contract to any person or persons or corporation, the involuntary labor of any convict, confined within said institutions.

Section 14. Enforcement. The Legislature by appropriate legislation shall provide for the enforcement of the provisions of this Article.

ARTICLE XI.
REVISIONS AND AMENDMENTS

Section 1. Amendment Process. Amendments to this constitution may be proposed to the Legislative Assembly and if the same shall be voted for by two-thirds (2/3) of the members elected to it, then such proposed amendments, together with the ayes and nays of each thereon, shall be entered in full in the Journal, and the Secretary of State shall cause the said amendment or amendments to be amply advertised before the next general election for a period of time to be determined by law; and at the election the amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and those which are approved by a two-thirds majority of those voting thereon shall become a part of the constitution. When two or more amendments are submitted at the same election, they shall be submitted so as to enable the electors to vote on each amendment separately; provided, however, that not more than five amendments to the constitution shall be submitted at the same election.

Section 2. Constitutional Convention. A Constitutional Convention may be called by law, by initiative, or by the voters of the State at a general election upon submission of the question by resolution of the Legislative Assembly. If a Constitutional Convention has not been held, or if the question of calling a convention has not been submitted to the voters of the State for a period of

twenty (20) years, then the question shall be submitted at the next general election. The Legislative Assembly shall provide by law for the holding of a convention within one (1) year after a majority of those voting on the question approve the calling of a convention.

Section 3. Convention Delegates. The Legislative Assembly shall provide for the election of Constitutional Convention Delegates, shall designate the time and place of meeting, establish and appropriate salaries for delegates and appropriate money for the other expenses of the convention as determined by it.

* *

THE MONTANA YMCA YOUTH CONSTITUTIONAL CONVENTION PASSED A RESOLUTION DIRECTING THAT THE QUESTION OF A UNICAMERAL OR A BICAMERAL LEGISLATURE BE PLACED TO A VOTE OF THE PEOPLE OF THE STATE OF MONTANA.

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ARTICLE III.
LEGISLATIVE

(Should the citizens of Montana prefer a Bicameral Legislature)

Section 1. Legislative Authority. The legislative authority of the state shall be vested in a legislative assembly, consisting of a Senate and a House of Representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article III, Section 19, of this constitution, independent of the Legislative Assembly, and also reserve power, at their own option, to approve or reject at the polls, any act of the Legislative Assembly, except as to laws necessary for the immediate preservation of the public peace, health , or safety, and except as to laws relating to appropriations of money, and except as to local or special laws, as enumerated in Article III, Section 19, of this Constitution. The first power reserved by the people is the initiative and eight per cent of the legal voters of the state shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight per cent of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petition shall be filed with the Secretary of State, not less than four months before the election at which they are to be voted upon.

The second power is the referendum, and it may be ordered either by petition signed by five per cent of the legal voters of the state, provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent of the legal voters in such county; or, by the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by initiative or referendum petitions.

All elections on measures referred to the people of the state shall be had at the bienneial regular general election, except when the Legislative Assembly, by a majority vote of both houses, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent of the legal voters of a majority of the

whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the tinitiative or referendum shall be the basis on which the number of legal petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State; and in submitting the same to the people, he, and all other officers shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the initiative shall be as follows:

"Be it enacted by the people of Montana..."

Section 2. Terms of Office. Senators shall be elected for the term of four years, and Representatives for the term of two years.

Section 3. Eligibility. No person shall be a legislator who shall not have attained the voting age and who shall not be a citizen of the United States, and who shall not have been a resident of the state. Residency requirements of Legislators shall be established in a manner prescribed by law.

Section 4. Convening. The Legislative Assembly shall convene on the second Wednesday of January of each year. The Legislative Assembly shall be a continuous body during the term for which the members of the Legislative Assembly are elected.

The Governor may convene the Legislature alone in special session by a proclamation stating the purpose of the session; and only business encompassed by such purpose, together with any impeachments or confirmations of appointments, shall be transacted.

Special sessions of the Legislative Assembly may be called into session by a one-third affirmative vote of both houses.

Section 5. Beginning of Term. The term of service of the Legislators shall begin the day the Legislative Assembly convenes, unless otherwise provided by law.

Section 6. Restrictions. No legislator shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of Congress or other person holding an office (except notary public, or in the militia) under the United States or this state, shall be a member of the Legislative Assembly during his continuance in office.

Section 7. Officers. At the beginning of the first regular session after a general election, and at such other times as may be necessary, the Senate shall elect one of its members president pro tempore, and the House of Representatives shall elect one of its members as Speaker. The President pro tempore and Speaker will serve as such until election and installation of their respective successors. Each house shall choose its other officers and shall judge the election and qualification of its members.

Section 8. Rules. Each house of the Legislative Assembly shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence of offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the Legislative Assembly of a free state.

A member expelled for corruption shall not thereafter be eligible to either house of the Legislative Assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution of the same offense.

Section 9. Journal. Each house of the Legislative Assembly shall keep a journal of its proceedings, and may, in its discretion, from time to time publish the same, except such parts as require secrecy, and the ayes and nays on any question shall, at the request of any two members, be entered on the journal.

Section 10. Attendance. A majority of each house of the Legislative Assembly shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as the assembly may prescribe.

Section 11. Open Assemblies. The sessions of the Legislative Assembly shall be open, unless the business is such that requires secrecy.

Section 12. Impeachment. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all members shall be necessary to impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without a concurrence of two-thirds of the Senators elected.

Treason, felony, malfeasance in office, violation of their oath of office, breach of peace or insanity duly determined by the court of law of the proper jurisdiction shall be grounds for impeachment.

Section 13. Committees. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of members.

Section 14. Passage of Bills. No bill shall become a law except by a vote of the majority of the members of both houses of the Legislative Assembly. The Legislative Assembly may override the Governor's veto by a two-third vote in both houses. No law shall be passed except by bill and no bill shall be so altered or amended on its passage through the Assembly as to change its original purpose.

Section 15. Officers and Employees. The Legislative Assembly shall prescribe by law the number, duties and compensation of the officers and employees of each house; and no payment shall be made from the state treasury or be in any way authorized to any such person, except to an acting officer or employee elected or appointed in pursuance of law.

The Legislative Assembly shall not delegate to any special commission, private corporation, or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise or to levy taxes, or to perform any municipal functions whatever.

Section 16. Immunity. The members of the Legislative Assembly shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of their house, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Section 17. Emergency by Enemy Attack. The Legislative Assembly in order to insure continuity of state and local governmental operations in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated.

(2) To adopt other measures that may be necessary to insure the continuity of governmental operations.

Such laws shall be effective only during the emergency that affects a particular office or governmental operation, and such laws may deviate from other provisions of the Montana Constitution including but not limited to the following sections:

(1) Section 2, Article X, seat of Regional governments
(2) Section 13, Article V, succession of governor.
(3) Section 11, Article V, special legislative sessions
(4) Section 4, Article III, length of legislative session
(5) Section 10, Article III, quorum to do business in each house
(6) Section 2, Article X, location of Regional offices
(7) Section 10, Article V, duties of executive officers of state
(8) Section 8, Article V, appointments by Governor

Section 18. Extension of Terms of Office. Except as otherwise provided in this constitution no law shall extend the term of any public officer, or diminish his salary or emolument after his election or appointment: provided, that this shall not be construed to forbid the Legislative Assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

Section 19. Local Laws. The Legislative Assembly shall pass no local laws.

Section 20. Collection of Debts. The Legislative Assembly shall have the power to collect all debts owed to the state.

Section 21. Appropriations. The Legislative Assembly shall have the power to appropriate funds necessary to any debts incurred by the state.

Section 22. Membership. The Senate shall consist of not more than sixty-five (65) members. The House of Representatives shall consist of not more than one hundred (100) members.

Done in the YMCA Youth Constitutional Convention in the City of Helena, on the eighth day of January, in the year of our Lord one thousand nine hundred and seventy two, of the Independence of the United States of America the one hundred and ninetieth, and of the State of Montana the eighty third.

In witness whereof we have hereunto subscribed our names.

John Elliott
President

Mike Daniels
Vice President

Secretary

Pat Vandersloot
Priscilla Haspiste
Carol Spaulding
Karen Cook
Bruce L. Holder
Dick Brown
Bob Burns
Mary Burke
Karen Botterud
Sandy Boehmler
Karen Blanchard
Rudy Bladsee
Rick Bartos
Diana Chambers
Kevin Cook
Peggy Coy
Rick Davenport
Chris Dodson

Bryan Doherty
Gene Driscoll
Robert Driver
Mike Rap
Kris Eskeson
Irene Fahey
Kenneth Kellogg
Vickie Keith
Gordon Witwer
Molly Holter
David Hutton
Lloyd Hedges
Warren Heap
Alan C. Hardy
Thomas Hallsten
Bob Griffing
Ray Glenny
Carla Gifford

Janann Gallagher
Ann Kilbourne
Kip Kramer
Jackson Lake
Charles Levitan
Genie Logan
Linda Long
Don McCammon
Bernard F. McCarthy
Susan McCue
Jean McDonough
Melinda McFeely
Jan Murphy
Christopher D. Miller
Rodney L. Roseen
Carl Rostad
Wiel Roscoe
Cindy Rickman
Jim Reyn
J. Mark Rugh
Russ Patterson
Nancy Patterson
Brien O'Grady

Bob Nelson
Paula Music
Katherine Rumely
Rick Scanlon
Gary Scheer
David W. Stansland
Linda Stolz
James Swingley
Elsuzei Thomas
James Tomlinson
Shannon Weatherly
Becki Smith
Judy Christian
Linda Mercado
Jim Roberts
Robert Whale
Andy St. Pierre (absent)
Gale Menz (absent)
Charles Clark (absent)

25

TOPIC: Convention News (fourth and fifth weeks)
SOURCE: Constitutional Convention Public Information Committee

Attached are news releases prepared by the members of the Public Information Committee to summarize activities of the Convention during recent weeks.

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

February 10, 1972

HELENA -- The fourth week of the Constitutional Convention marked the beginning of the Romney Hearings. These hearings were designed to provide the public with a last chance to voice their opinions concerning controversial issues before the committee submits its final draft.

The focal point of the Executive Committee's hearings centered on the power of the governor as expressed in the long or short ballot.

The questions confronting the Legislative Committee dealt with the unicameral (one-house) and bicameral (house and senate) proposals, whether the legislature should be elected from single member districts, and whether there should be biennial or annual sessions.

The Judiciary Committee's proposals revolve around election or appointment of judges and a change or retention of the present justice of the peace courts.

General Government is considering suffrage and elections. An article on constitutional amendments has been proposed as have recommendations concerning lotteries.

Local Government has under its consideration the need for more power to local government units. Home Rule provisions and the possibility of local charters are two options considered by the committee.

The Natural Resources and Agriculture Committee has a wide

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

February 16, 1972

HELENA -- The Constitutional Convention entered the debate phase on Thursday, Feb. 17 with the General Government Committee's proposal for a new article on suffrage and elections.

After the opening debate, the committee proposals are expected to be presented for debate about every two days in the following order: Legislative, Judiciary, Executive, Natural Resources and Agriculture, Revenue and Finance, Bill of Rights, Education and Public Lands, Public Health, Welfare and Labor, Local Government and the General Government proposal on constitutional amendment.

During the debates, the delegates will have an opportunity to discuss the majority and minority reports from the committees and to offer amendments. Earlier in the Convention, delegates appeared before various committees in support of their delegate proposals, however, this is the first time the delegates will actively participate in debates on all of the issues.

The General Government Committee held a live radio hearing Monday evening, Feb. 14. The Committee took testimony by telephone on the subject of lotteries, gambling, and gift enterprises. During the meeting, 49 calls came in from all over the state. Approximately 80% of those calling favored some form of legalized gambling.

County Commissioners and other county officials appeared at a hearing of the Local Government Committee on its final report. Other citizen groups including the League of Women Voters and the

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League of Cities and Towns also testified at the hearing.

Telegrams and mail to the delegates increased substantially this past week.

The tours of the Capitol and the Constitutional Convention have sharply increased, as hundreds of students from all over the state converge on the State Capitol to observe the Convention's "Great Debate."

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26

TOPIC: Delegate Profile
SOURCE: Don Walchuk
NOTE: Don Walchuk is a political science major at Carroll College. He is working at the Constitutional Convention as an intern with Dale Harris, Executive Director of the Montana Constitutional Convention Commission. The information provided in this profile is based on material provided by the delegates and Lee Newspapers, according to Mr. Walchuk.

Age and Sex: The average age of the delegates is 50 years. There is a 49 year span between the oldest delegate who is 73 and the youngest who is 24. Overall, there are 5 delegates who are under 30 and 8 who are 65 or older. There are 81 men serving as delegates and 19 women.

Place of Birth: Over half (61) of the delegates are native born to the state of Montana and the other 39, though state residents, claim 22 other states as their birthplaces.

Marital Status and Children: 90 delegates are presently married and the other 10 are now single due to either never having been married or having been widowed. The number of children whose parents are serving as delegates to the constitution totals 318 representing an average 3.18 children per delegate.

Occupation: The field of Law provides almost 1/4 of the occupations with 24 delegates being attorneys. There are 19 delegates who are either farmers or ranchers, 17 make their living as businessmen or merchants and Education is represented by 14 delegates. There are 4 clergymen, 3 professionals, and 2 bankers. Housewives and some assorted other occupations make the balance with 11 housewives and 8 being a miscellaneous group of occupations. (The reason the total occupations is more than 100 is because some delegates listed 2 occupations).

Education: At least 80 of the delegates have attended or graduated from college. Many then have also continued on and gotten post-graduate degrees.

Military Service: 40 delegates have served with the armed forces of the United States.

Religious Affiliation: Catholics head the list of churches being represented with 1/4 (25) of the delegates. There are 13 Presbyterians, 12 Methodists, 10 Lutherans, 9 Episcopalions, and 8 Congregationalists serving as delegates. The rest of the delegates belong to various other churches or claim no particular religious affiliation.

Party Affiliation: The Supreme Court of Montana declared that delegates to the Conventions must be elected on a partisan basis so, there were 58 Democrats - 36 Republicans and 6 Independents elected to the Convention.

Previous Political Experience: At least 42 of the delegates have had previous political experience having been elected to a various number of positions both on the state and local scene. 8 have held city offices by being either mayors or city councilmen. 8 more delegates have been elected to county positions, while 12 have served on school boards. At least 18 of the delegates are former legislators. Some of the delegates have served both locally and on the state scene accounting for the difference in totals.

MONTANA CONSTITUTIONAL CONVENTION INSTRUCTIONAL IDEA AND RESOURCE FILE
A PROJECT INITIATED AND COORDINATED BY DOLORES COLBURG, SUPERINTENDENT OF PUBLIC INSTRUCTION

27

TOPIC: Convention News (sixth week)
SOURCE: Constitutional Convention Public Information Committee

Attached are news releases prepared by members of the Public Information Committee to summarize activities of the Convention and the recent 4-H "convention" in Helena.

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA MONTANA 59601 • TELEPHONE 406/449-3750

February 25, 1972

HELENA -- The General Government Committee's proposals concerning Suffrage and Elections and Constitutional Amendment were debated Thursday and Friday by the delegates. The article on constitutional revision facilitates future amendments to the document and holding future constitutional conventions.

The 1889 Constitution offered only one method of calling a constitutional convention--2/3 majority vote of both houses of the legislature followed by approval of the voters. Under the proposed article which received tentative approval by the delegates, voters will have the right to use initiative petitions to call a constitutional convention in the future.

The poll booth registration, allowing citizens to register up to and including the day of election, has been left to the legislature. Many delegates voting against the proposal said they thought it should be enacted by the legislature, not established in the constitution.

The Legislative proposal was presented for discussion by the delegates on February 19. Delegates tentatively adopted a section providing for 60-day annual sessions. This section also would enable the legislature to call special sessions, whereas at present this privilege rests solely with the Governor.

A large majority of the delegates have given tentative approval to a section requiring that all legislative sessions, meetings, and hearings be open to the public. Many delegates stated that they hope

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MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406-449-3750

February 26, 1972

For Immediate Release

HELENA -- "Throughout the day, between speeches, we argued, debated and got confused over various proposals."

Reporting in the Con Con Chronicle, a two-issue "newspaper" published by 4-H delegates attending a simulated constitutional convention at the Capitol, Marilyn Lutgen of Rapelje thus described the activities of the "Judicial Committee" on which she served.

Reports on five other "committees," paralleling actual convention committees, also were published today.

Before concluding their three-day meeting, the sixty 4-H'ers from communities throughout the state settled a number of issues.

They voted in favor of a bicameral legislature with a 75 to 100-member house and a 50 to 55-member senate which would meet at least annually for up to 90 days, with representatives elected from single-member districts.

The 4-H "convention" also adopted the majority report of its "Bill of Rights and Environment Committee," which emphasized the right of freedom from discrimination,

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the right to bear arms, the right of privacy, and environmental rights, stressing "the right of citizens to sue on environmental matters without having to prove harm to themselves.

"They would have to prove only that there is harm to the environment," the 4-H delegates agreed.

Dr. Robert Eagle, Assistant Professor of Political Science, University of Montana, supervised the simulation program with cooperation from convention delegates, staff and student interns.

The "convention" was sponsored by the Montana 4-H Foundation, assisted by the Cooperative Extension Service.

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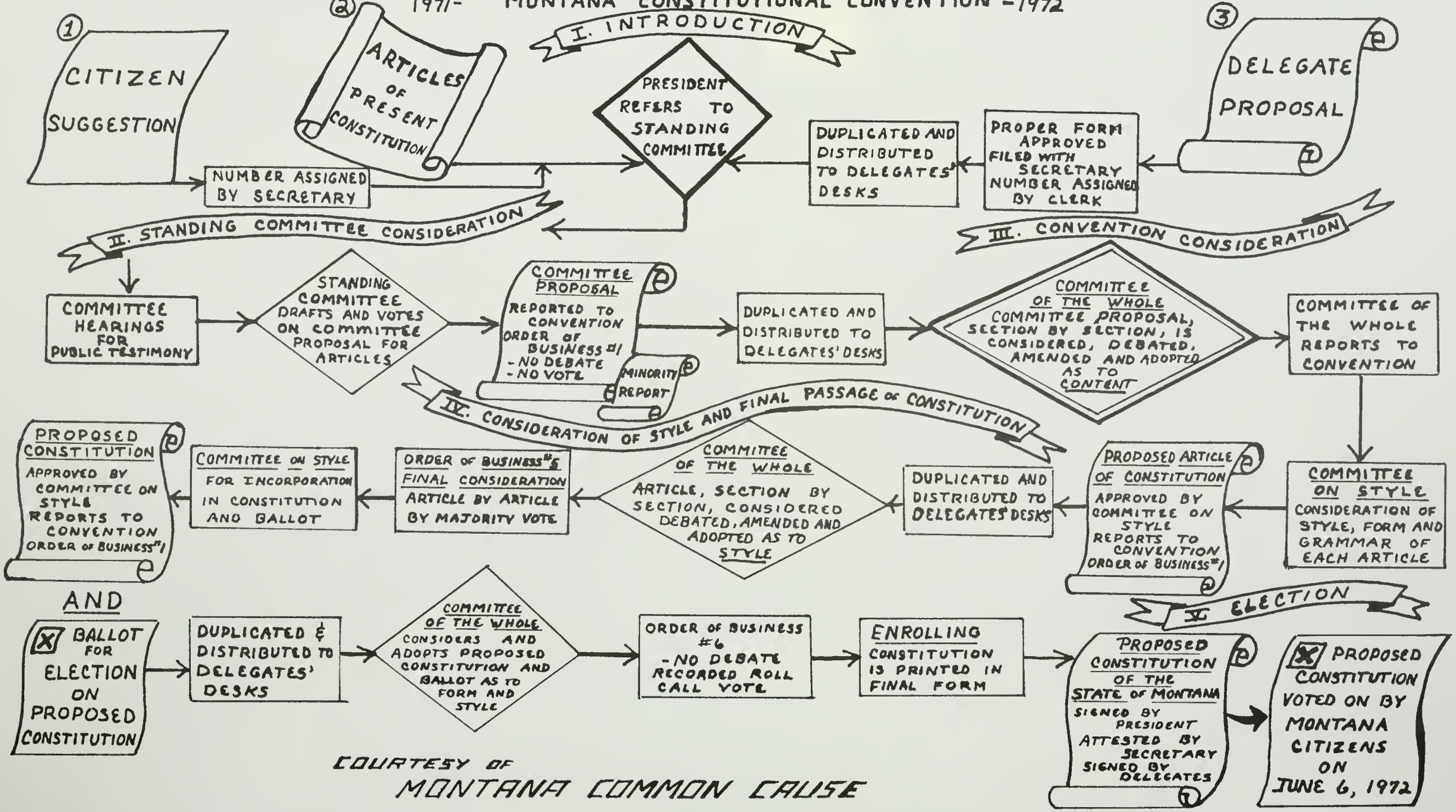
28

TOPIC: Procedure for Constitutional Revision
SOURCE: Montana Common Cause

The attached chart was supplied by members of Montana Common Cause to illustrate the procedure for constitutional revision during the Convention and through ratification. Additional copies are available from the Common Cause office in Helena.

The PROCEDURE For THE MAKING of a NEW MONTANA CONSTITUTION

1971- MONTANA CONSTITUTIONAL CONVENTION -1972


1
CITIZEN SUGGESTION
2
ARTICLES OF PRESENT CONSTITUTION
3
DELEGATE PROPOSAL
I. INTRODUCTION
NUMBER ASSIGNED BY SECRETARY
PRESIDENT REFERS TO STANDING COMMITTEE
DUPLICATED AND DISTRIBUTED TO DELEGATES' DESKS
PROPER FORM APPROVED FILED WITH SECRETARY NUMBER ASSIGNED BY CLERK
II. STANDING COMMITTEE CONSIDERATION
III. CONVENTION CONSIDERATION
COMMITTEE HEARINGS FOR PUBLIC TESTIMONY
STANDING COMMITTEE DRAFTS AND VOTES ON COMMITTEE PROPOSAL FOR ARTICLES
COMMITTEE PROPOSAL
REPORTED TO CONVENTION
ORDER OF BUSINESS #1
- NO DEBATE
- NO VOTE
MINORITY REPORT
DUPLICATED AND DISTRIBUTED TO DELEGATES' DESKS
COMMITTEE OF THE WHOLE
COMMITTEE PROPOSAL, SECTION BY SECTION, IS CONSIDERED, DEBATED, AMENDED AND ADOPTED AS TO CONTENT
COMMITTEE OF THE WHOLE REPORTS TO CONVENTION
IV. CONSIDERATION OF STYLE AND FINAL PASSAGE OF CONSTITUTION
PROPOSED CONSTITUTION
APPROVED BY COMMITTEE ON STYLE
REPORTS TO CONVENTION
ORDER OF BUSINESS #1
COMMITTEE ON STYLE
FOR INCORPORATION IN CONSTITUTION AND BALLOT
ORDER OF BUSINESS #5
FINAL CONSIDERATION
ARTICLE BY ARTICLE
BY MAJORITY VOTE
COMMITTEE OF THE WHOLE
ARTICLE, SECTION BY SECTION, CONSIDERED DEBATED, AMENDED AND ADOPTED AS TO STYLE
DUPLICATED AND DISTRIBUTED TO DELEGATES' DESKS
PROPOSED ARTICLE OF CONSTITUTION
APPROVED BY COMMITTEE ON STYLE
REPORTS TO CONVENTION
ORDER OF BUSINESS #1
COMMITTEE ON STYLE
CONSIDERATION OF STYLE, FORM AND GRAMMAR OF EACH ARTICLE
V. ELECTION
AND
☒ BALLOT FOR ELECTION ON PROPOSED CONSTITUTION
DUPLICATED & DISTRIBUTED TO DELEGATES' DESKS
COMMITTEE OF THE WHOLE
CONSIDERS AND ADOPTS PROPOSED CONSTITUTION AND BALLOT AS TO FORM AND STYLE
ORDER OF BUSINESS #6
- NO DEBATE
RECORDED ROLL CALL VOTE
ENROLLING
CONSTITUTION IS PRINTED IN FINAL FORM
PROPOSED CONSTITUTION OF THE STATE OF MONTANA
SIGNED BY PRESIDENT
ATTESTED BY SECRETARY
SIGNED BY DELEGATES
☒ PROPOSED CONSTITUTION VOTED ON BY MONTANA CITIZENS ON JUNE 6, 1972

COURTESY OF

MONTANA COMMON CAUSE

EXPLANATION OF FLOW CHART (front)

1. CITIZEN SUGGESTION
2. ARTICLES OF PRESENT CONSTITUTION
3. DELEGATE PROPOSAL

} These are the starting points of the flow chart. It is in these 3 ways that ideas are proposed to the Convention.

COMMITTEE PROPOSAL: Each of the 10 Standing Substantive Committees are charged with drafting particular article(s), after public hearings. Each committee's report to the Convention is called a Committee Proposal.

COMMITTEE OF THE WHOLE: The times during the Convention whan all the delegates consider and debate Committee Proposals.

STANDING SUBSTANTIVE COMMITTEES:

1. Bill of Rights
2. Education and Public Lands
3. Executive
4. General Government and Constitutional Amendment
5. Judiciary
6. Legislative
7. Local Government
8. Natural Resources and Agriculture
9. Public Health, Welfare, Labor and Industry
10. Revenue and Finance

ORDER OF BUSINESS:

1. Reports of Standing Committees
2. Reports of Select Committees
3. Communications
4. Introduction and Reference of Delegate Proposals
5. Final Consideration of Proposals
6. Adoption of Proposed Constitution and Ballot
7. Motions and Resolutions
8. Unfinished Business
9. Special Orders of the Day
10. General Orders of the Day (Committee of the Whole)
11. Committee Anouncements and Notices

ABOUT COMMON CAUSE

COMMON CAUSE is a national, non-partisan citizen's group, lobbying in the public interest at all levels of government. Concerned with issues, not parties of candidates, Common Cause has stated as one of its chief goals, the "...overhaul and revitalization of government, to create effective and responsive institutions and processes." Within this broad goal, the modernization of state governments has been a top priority issue for Common Cause.

MONTANA COMMON CAUSE, a chapter of National Common Cause, is currently engaged at the Constitutional Convention in expressing members' concern for and interest in a responsive, accessible, and effective state government. Members of Montana Common Cause have identified major issues which will be advocated by lobby-coordinators during the convention: a.) a unicameral legislature; b.) citizens' right to know; c.) annual legislative sessions; d.) single-member legislative districts; e.) election of state Supreme Court justices; f.) "short ballot" -- a reduction in the number of elected officials.

Persons interested in joining Common Cause, or in contributing to the Montana Common Cause constitutional effort, may write to:

Montana Common Cause
P. O. Box 654
Helena, Montana 59601

Name_____
Address_____
_____

__ I will contribute $____ to M. C. C. Con-Con effort.

__ I would like to join Common Cause ($15 / year)

__ Please send me more information.

29

TOPIC: Convention News (seventh and eighth weeks)
SOURCE: Constitutional Convention Public Information Committee

Attached are news releases prepared by members of the Public Information Committee to summarize recent debate at the Convention.

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

March 2, 1972

HELENA -- Despite retaining all seven state elected officials, Constitutional Convention delegates have adopted several changes in the proposed executive article. The article provides that the governor and the lieutenant governor run as a team. It lowers age limits for executive officers from 30 to 25 and it requires the governor to either sign or veto a bill, which in essence, abolishes the practice of pocket veto. The tentative article, pending final approval by the delegates, provides for an amendatory veto by the governor. This would enable the governor to veto sections of a bill and return the bill to the legislature with his suggested amendments. The article which is patterned after the 25th amendment of the United States Constitution, also provides for succession in the event that a governor becomes disabled.

The delegates voted to remove boards and commissions from the Constitution. Among those deleted were: Board of Examiners, State Examiner, Board of State Prison Commissions, Board of Pardons, and State Depository Board.

The Judicial Article, considered Tuesday, provides for a combination of appointment and election of judges. Under the plan adopted, when a vacancy occurs in the Supreme Court or district court, a nominating committee will submit several names to the governor, who will pick one from the list. The nomination will then be confirmed by the Senate.

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The appointed judge must stand for election at the next general election, when other candidates may also run. If no one runs against the appointed judge, the people will be asked to vote yes or no on whether he should be retained.

The delegates voted to retain the Justice of the Peace as a constitutional office. The legislature will set qualifications, monthly salaries, and training requirements for the Justices of the Peace.

The terms of the Supreme Court Justices and the district court judges were increased by the delegates from six to eight years for Supreme Court Justices and from four to six years for district court judges.

The offices of Clerk of the Supreme Court, clerk of the district court, and county attorney have been deleted from the proposed constitutional article.

The delegates rejected a proposal to appropriate state funds for campaigns for general elections of all judges and justices.

The Natural Resources Committee's proposed article is now being considered by the delegates. The article, containing an environmental protection clause, is being debated upon the floor.

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MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

March 8, 1972

FROM: Louise Cross, Chairman
Natural Resources and Agriculture

RE: ENVIRONMENT

The question of the environment was one of the most hotly debated issues of the Convention as it appeared in the report of the Natural Resources and Agriculture Committee.

Final action by the Convention includes a new article entitled Environment and Natural Resources with a statement on environment and in which the legislature was directed to provide remedies to protect the environment; that all lands disturbed by the taking of natural resources be reclaimed, with the legislature again establishing the method of enforcement.

The section on water reaffirms existing rights and declares all surface, underground, flood and atmospheric waters within the boundaries of the state are all property of the state; legislature shall provide for administration, etc.

Also adopted was a section on the preservation and administration of cultural resources.

A second article on a Department of Agriculture was also adopted with a right to special levies included.

MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

March 9, 1972

HELENA -- Unlike other Committee proposals the Revenue and Finance Committee recommendations emerged after the Con Con debate with few changes. Highlights of the article, debated Friday and Saturday, are a less restrictive highway antidiversion section, groundwork for centralized property tax administration and the removal of a $100,000 ceiling on state indebtedness. Legislators must also provide for a local and state level appeal board where taxpayers could take up grievances over appraisals, assessments and equalization.

The Revenue and Finance article may also provide for statewide property taxation administration which would enable the Legislature to establish equal funding of schools in both rich and poor districts.

A section banning various types of discrimination was approved Tuesday. The delegates tentatively passed a section banning discrimination on the basis of one's exercise of "his civil or political rights on account of race, color, sex, culture, social origin or political or religious ideas of any person, firm, corporation or institution or by the state, its agencies or subdivisions."

The delegates also passed sections guaranteeing Montanans the right of self-government, freedom of assembly, and freedom of

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speech and press, which would also include freedom of expression.

A new preamble drafted by the Bill of Rights Committee was approved by the delegates.

The delegates tentatively passed a right-to-know section which provides that the public will be able to examine government documents and deliberations except when "the demand of individual privacy exceeds the merits of public disclosure."

Some new rights granted in the proposed Bill of Rights Article include the right of privacy, adult right, rights of persons under age, non-immunity from suit of the state and its subdivisions, and the right of eminent domain.

The delegates suspended the rules Tuesday and cut the size of the proposed unicameral and bicameral legislature. The unicameral legislature would have a chamber of 90 to 105 members, and the bicameral legislature would have a house from 80 to 100 members and a senate of 40 to 50 members, under the proposed article.

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30

TOPIC: Proposed Constitution
SOURCE: Montana Constitutional Convention

A copy of the proposed constitution, including the official ballot format, is attached. The copy was originally prepared by the Montana Constitutional Convention and was reprinted by the State Superintendent for classroom reference.

MONTANA CONSTITUTIONAL CONVENTION

1971-72

PROPOSED CONSTITUTION

To Be

Submitted

to

Voters on June 6, 1972

MONTANA CONSTITUTIONAL CONVENTION

1971-1972

PREAMBLE

We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.

ARTICLE I

COMPACT WITH THE UNITED STATES

All provisions of the enabling act of Congress (approved February 22, 1889, 25 Stat. 676), as amended and of Ordinance No. 1, appended to the Constitution of the state of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana.

ARTICLE II

DECLARATION OF RIGHTS

Section 1. POPULAR SOVEREIGNTY. All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Section 2. SELF-GOVERNMENT. The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

Section 3. INALIENABLE RIGHTS. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Section 4. INDIVIDUAL DIGNITY. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

Section 5. FREEDOM OF RELIGION. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Section 6. FREEDOM OF ASSEMBLY. The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action.

Section 7. FREEDOM OF SPEECH, EXPRESSION, AND PRESS. No law shall be passed impairing the freedom of speech or expression. Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty. In all suits and prosecutions for libel or slander the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Section 8. RIGHT OF PARTICIPATION. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

Section 9. RIGHT TO KNOW. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

Section 10. RIGHT OF PRIVACY. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

Section 11. SEARCHES AND SEIZURES. The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures. No warrant to search any place, or seize any person or thing shall issue without describing the place to be searched or the person or thing to be seized, or without probable cause, supported by oath or affirmation reduced to writing.

Section 12. RIGHT TO BEAR ARMS. The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Section 13. RIGHT OF SUFFRAGE. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Section 14. ADULT RIGHTS. A person 18 years of age or older is an adult for all purposes.

Section 15. RIGHTS OF PERSONS NOT ADULTS. The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this article unless specifically precluded by laws which enhance the protection of such persons.

Section 16. THE ADMINISTRATION OF JUSTICE. Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workmen's Compensation Laws of this state. Right and justice shall be administered without sale, denial, or delay.

Section 17. DUE PROCESS OF LAW. No person shall be

deprived of life, liberty, or property without due process of law.

Section 18. STATE SUBJECT TO SUIT. The state, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1973.

Section 19. HABEAS CORPUS. The privilege of the writ of habeas corpus shall never be suspended.

Section 20. INITIATION OF PROCEEDINGS. (1) Criminal offenses within the jurisdiction of any court inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those on appeal, shall be prosecuted either by information, after examination and commitment by a magistrate or after leave granted by the court, or by indictment without such examination, commitment or leave.

(2) A grand jury shall consist of eleven persons, of whom eight must concur to find an indictment. A grand jury shall be drawn and summoned only at the discretion and order of the district judge.

Section 21. BAIL. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Section 22. EXCESSIVE SANCTIONS. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Section 23. DETENTION. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner provided by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof.

Section 24. RIGHTS OF THE ACCUSED. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Section 25. SELF-INCRIMINATION AND DOUBLE JEOPARDY. No person shall be compelled to testify against himself in a criminal proceeding. No person shall be again put in jeopardy for the same offense previously tried in any jurisdiction.

Section 26. TRIAL BY JURY. The right of trial by jury is secured to all and shall remain inviolate. But upon default of appearance or by consent of the parties expressed in such manner as the law may provide, all cases may be tried without a jury or before fewer than the number of jurors provided by law. In all civil actions, two-thirds of the jury may render a verdict, and a verdict so rendered

shall have the same force and effect as if all had concurred therein. In all criminal actions, the verdict shall be unanimous.

Section 27. IMPRISONMENT FOR DEBT. No person shall be imprisoned for debt except in the manner provided by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Section 28. RIGHTS OF THE CONVICTED. Laws for the punishment of crime shall be founded on the principles of prevention and reformation. Full rights are restored by termination of state supervision for any offense against the state.

Section 29. EMINENT DOMAIN. Private property shall not be taken or damaged for public use without just compensation to the full extent of the loss having been first made to or paid into court for the owner. In the event of litigation, just compensation shall include necessary expenses of litigation to be awarded by the court when the private property owner prevails.

Section 30. TREASON AND DESCENT OF ESTATES. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislature; no conviction shall cause the loss of property to the relatives or heirs of the convicted. The estates of suicides shall descend or vest as in cases of natural death.

Section 31. EX POST FACTO, OBLIGATION OF CONTRACTS, AND IRREVOCABLE PRIVILEGES. No ex post facto law nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislature.

Section 32. CIVILIAN CONTROL OF THE MILITARY. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner provided by law.

Section 33. IMPORTATION OF ARMED PERSONS. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislature, or of the governor when the legislature cannot be convened.

Section 34. UNENUMERATED RIGHTS. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Section 35. SERVICEMEN, SERVICEWOMEN, AND VETERANS. The people declare that Montana servicemen, servicewomen, and veterans may be given special considerations determined by the legislature.

ARTICLE III

GENERAL GOVERNMENT

Section 1. SEPARATION OF POWERS. The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Section 2. CONTINUITY OF GOVERNMENT. The seat of government shall be in Helena, except during periods of emergency resulting from disasters or enemy attack. The legislature may enact laws to insure the continuity of government during a period of emergency without regard for other provisions of the constitution. They shall be effective only during the period of emergency that affects a particular office or governmental operation.

Section 3. OATH OF OFFICE. Members of the legislature and all executive, ministerial and judicial officers, shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity (so help me God)." No other oath, declaration, or test shall be required as a qualification for any office or public trust.

Section 4. INITIATIVE. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

Section 5. REFERENDUM. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

(2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

Section 6. ELECTIONS. The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election.

Section 7. NUMBER OF ELECTORS. The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

Section 8. PROHIBITION. The provisions of this Article do not apply to CONSTITUTIONAL REVISION, Article XIV.

Section 9. GAMBLING. All forms of gambling, lotteries, and gift enterprises are prohibited.

ARTICLE IV

SUFFRAGE AND ELECTIONS

Section 1. BALLOT. All elections by the people shall be by secret ballot.

Section 2. QUALIFIED ELECTOR. Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.

Section 3. ELECTIONS. The legislature shall provide by law the requirements for residence, registration, absentee voting, and administration of elections. It may provide for a system of poll booth registration, and shall insure the purity of elections and guard against abuses of the electoral process.

Section 4. ELIGIBILITY FOR PUBLIC OFFICE. Any qualified elector is eligible to any public office except as otherwise provided in this constitution. The legislature may provide additional qualifications but no person convicted of a felony shall be eligible to hold office until his final discharge from state supervision.

Section 5. RESULT OF ELECTIONS. In all elections held by the people, the person or persons receiving the largest number of votes shall be declared elected.

Section 6. PRIVILEGE FROM ARREST. A qualified elector is privileged from arrest at polling places and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace.

ARTICLE V

THE LEGISLATURE

Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum.

Section 2. SIZE. The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members.

Section 3. ELECTION AND TERMS. A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years each to begin on a date provided by law. One-half of the senators shall be elected every two years.

Section 4. QUALIFICATIONS. A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

Section 5. COMPENSATION. Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

Section 6. SESSIONS. The legislature shall be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular session of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

Section 7. VACANCIES. A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

Section 8. IMMUNITY. A member of the legislature is privileged from arrest during attendance at session of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Section 9. DISQUALIFICATION. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or the militia) under the United States or this state, shall be a member of the legislature during his continuance in office.

Section 10. ORGANIZATION AND PROCEDURE. (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall

choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Section 11. BILLS. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Section 12. LOCAL AND SPECIAL LEGISLATION. The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal

from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as tribunal.

(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

ARTICLE VI

THE EXECUTIVE

Section 1. OFFICERS. (1) The executive branch includes a governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor.

(2) Each holds office for a term of four years which begins on the first Monday of January next succeeding election, and until a successor is elected and qualified.

(3) Each shall reside at the seat of government, there keep the public records of his office, and perform such other duties as are provided in this constitution and by law.

Section 2. ELECTION. (1) The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor shall be elected by the qualified electors at a general election provided by law.

(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and lieutenant governor are voted upon together in primary and general elections.

Section 3. QUALIFICATIONS. (1) No person shall be eligible to the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has resided within the state two years next preceding his election.

(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least five years before election.

(3) The superintendent of public instruction shall have such educational qualifications as are provided by law.

Section 4. DUTIES. (1) The executive power is vested in the governor who shall see that the laws are faithfully executed. He shall have such other duties as are provided in this constitution and by law.

(2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant governor.

(3) The secretary of state shall maintain official records of the executive branch and of the acts of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties provided by law.

(4) The attorney general is the legal officer of the state and shall have the duties and powers provided by law.

(5) The superintendent of public instruction and the auditor shall have such duties as are provided by law.

Section 5. COMPENSATION. (1) Officers of the executive branch shall receive salaries provided by law.

(2) During his term, no elected officer of the executive branch may hold another public office or receive compensation for services from any other governmental agency. He may

be a candidate for any public office during his term.

Section 6. VACANCY IN OFFICE. (1) If the office of lieutenant governor becomes vacant by his succession to the office of governor, or by his death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the elected governor and the elected lieutenant governor become unable to serve in the office of governor, succession to the respective offices shall be as provided by law for the period until the next general election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.

(2) If the office of secretary of state, attorney general, auditor, or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office until the next general election and until a successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was elected.

Section 7. 20 DEPARTMENTS. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a department.

Section 8. APPOINTING POWER. (1) The departments provided for in section 7 shall be under the supervision of the governor. Except as otherwise provided in this constitution or by law, each department shall be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office until the end of the governor's term unless sooner removed by the governor.

(2) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this constitution or by law whose appointment or election is not otherwise provided for. They shall hold office until the end of the governor's term unless sooner removed by the governor.

(3) If a vacancy occurs in any such office when the legislature is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the office is filled by appointment and confirmation.

(4) A person not confirmed by the senate for an office shall not, except at its request, be nominated again for that office at the same session, or be appointed to that office when the legislature is not in session.

Section 9. BUDGET AND MESSAGES. The governor shall at the beginning of each legislative session, and may at other times, give the legislature information and recommend measures he considers necessary. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed expenditures and estimated revenue of the state.

Section 10. VETO POWER. (1) Each bill passed by the legislature, except bills proposing amendments to the Montana

constitution, bills ratifying proposed amendments to the United States constitution, resolutions, and initiative and referendum measures, shall be submitted to the governor for his signature. If he does not sign or veto the bill within five days after its delivery to him if the legislature is in session or within 25 days if the legislature is adjourned, it shall become law. The governor shall return a vetoed bill to the legislature with a statement of his reasons therefor.

(2) The governor may return any bill to the legislature with his recommendation for amendment. If the legislature passes the bill in accordance with the governor's recommendation, it shall again return the bill to the governor for his reconsideration. The governor shall not return a bill for amendment a second time.

(3) If after receipt of a veto message, two-thirds of the members present approve the bill, it shall become law.

(4) If the legislature is not in session when the governor vetoes a bill, he shall return the bill with his reasons therefor to the legislature as provided by law. The legislature may reconvene to reconsider any bill so vetoed.

(5) The governor may veto items in appropriation bills, and in such instances the procedure shall be the same as upon veto of an entire bill.

Section 11. SPECIAL SESSION. Whenever the governor considers it in the public interest, he may convene the legislature.

Section 12. PARDONS. The governor may grant reprieves, commutations and pardons, restore citizenship, and suspend and remit fines and forfeitures subject to procedures provided by law.

Section 13. MILITIA. (1) The governor is commander-in-chief of the militia forces of the state, except when they are in the actual service of the United States. He may call out any part or all of the forces to aid in the execution of the laws, suppress insurrection, repel invasion, or protect life and property in natural disasters.

(2) The militia forces shall consist of all able-bodied citizens of the state except those exempted by law.

Section 14. SUCCESSION. (1) If the governor-elect is disqualified or dies, the lieutenant governor-elect upon qualifying for the office shall become governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor-elect upon qualifying as such shall serve as acting governor until the governor-elect is able to assume office, or until the office becomes vacant.

(2) The lieutenant governor shall serve as acting governor when so requested in writing by the governor. After the governor has been absent from the state for more than 45 consecutive days, the lieutenant governor shall serve as acting governor.

(3) He shall serve as acting governor when the governor is so disabled as to be unable to communicate to the lieutenant governor the fact of his inability to perform the duties of his office. The lieutenant governor shall continue to serve as acting governor until the governor is able to resume the duties of his office.

(4) Whenever, at any other time, the lieutenant governor and attorney general transmit to the legislature their written declaration that the governor is unable to discharge the powers and duties of his office, the legislature shall

convene to determine whether he is able to do so.

(5) If the legislature, within 21 days after convening, determines by two-thirds vote of its members that the governor is unable to discharge the powers and duties of his office, the lieutenant governor shall serve as acting governor. Thereafter, when the governor transmits to the legislature his written declaration that no inability exists, he shall resume the powers and duties of his office within 15 days, unless the legislature determines otherwise by two-thirds vote of its members. If the legislature so determines, the lieutenant governor shall continue to serve as acting governor.

(6) If the office of governor becomes vacant by reason of death, resignation, or disqualification, the lieutenant governor shall become governor for the remainder of the term, except as provided in this constitution.

(7) Additional succession to fill vacancies shall be provided by law.

(8) When there is a vacancy in the office of governor, the successor shall be the governor. The acting governor shall have the powers and duties of the office of governor only for the period during which he serves.

Section 15. INFORMATION FOR GOVERNOR. (1) The governor may require information in writing, under oath when required, from the officers of the executive branch upon any subject relating to the duties of their respective offices.

(2) He may require information in writing, under oath, from all officers and managers of state institutions.

(3) He may appoint a committee to investigate and report to him upon the condition of any executive office or state institution.

ARTICLE VII

THE JUDICIARY

Section 1. JUDICIAL POWER. The judicial power of the state is vested in one supreme court, district courts, justice courts, and such other courts as may be provided by law.

Section 2. SUPREME COURT JURISDICTION. (1) The supreme court has appellate jurisdiction and may issue, hear, and determine writs appropriate thereto. It has original jurisdiction to issue, hear, and determine writs of habeas corpus and such other writs as may be provided by law.

(2) It has general supervisory control over all other courts.

(3) It may make rules governing appellate procedure, practice and procedure for all other courts, admission to the bar and the conduct of its members. Rules of procedure shall be subject to disapproval by the legislature in either of the two sessions following promulgation.

(4) Supreme court process shall extend to all parts of the state.

Section 3. SUPREME COURT ORGANIZATION. (1) The supreme court consists of one chief justice and four justices, but the legislature may increase the number of justices from four to six. A majority shall join in and pronounce decisions, which must be in writing.

(2) A district judge shall be substituted for the chief justice or a justice in the event of disqualification or disability, and the opinion of the district judge sitting with the supreme court shall have the same effect as an opinion of a justice.

Section 4. DISTRICT COURT JURISDICTION. (1) The district court has original jurisdiction in all criminal cases amounting to felony and all civil matters and cases at law and in equity. It may issue all writs appropriate to its jurisdiction. It shall have the power of naturalization and such additional jurisdiction as may be delegated by the laws of the United States or the state of Montana. Its process shall extend to all parts of the state.

(2) The district court shall hear appeals from inferior courts as trials anew unless otherwise provided by law. The legislature may provide for direct review by the district court of decisions of administrative agencies.

(3) Other courts may have jurisdiction of criminal cases not amounting to felony and such jurisdiction concurrent with that of the district court as may be provided by law.

Section 5. JUSTICES OF THE PEACE. (1) There shall be elected in each county at least one justice of the peace with qualifications, training, and monthly compensation provided by law. There shall be provided such facilities that they may perform their duties in dignified surroundings.

(2) Justice courts shall have such original jurisdiction as may be provided by law. They shall not have trial jurisdiction in any criminal case designated a felony except as examining courts.

(3) The legislature may provide for additional justices of the peace in each county.

Section 6. JUDICIAL DISTRICTS. (1) The legislature shall divide the state into judicial districts and provide for the number of judges in each district. Each district shall be formed of compact territory and be bounded by county lines.

(2) The legislature may change the number and boundaries of judicial districts and the number of judges in each district, but no change in boundaries or the number of districts or judges therein shall work a removal of any judge from office during the term for which he was elected or appointed.

(3) The chief justice may, upon request of the district judge, assign district judges and other judges for temporary service from one district to another, and from one county to another.

Section 7. TERMS AND PAY. (1) All justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office.

(2) Terms of office shall be eight years for supreme court justices, six years for district court judges, four years for justices of the peace, and as provided by law for other judges.

Section 8. SELECTION. (1) The governor shall nominate a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

(2) If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.

(3) If an incumbent does not run, there shall be an election for the office.

Section 9. QUALIFICATIONS. (1) A citizen of the United States who has resided in the state two years immediately before taking office is eligible to the office of supreme court justice or district court judge if admitted to the practice of law in Montana for at least five years prior to the date of appointment or election. Qualifications and methods of selection of judges of other courts shall be provided by law.

(2) No supreme court justice or district court judge shall solicit or receive compensation in any form whatever on account of his office, except salary and actual necessary travel expense.

(3) Except as otherwise provided in this constitution, no supreme court justice or district court judge shall practice law during his term of office, engage in any other employment for which salary or fee is paid, or hold office in a political party.

(4) Supreme court justices shall reside within the state. Every other judge shall reside during his term of office in the district, county, township, precinct, city or town in which he is elected or appointed.

Section 10. FORFEITURE OF JUDICIAL POSITION. Any holder of a judicial position forfeits that position by either filing for an elective public office other than a judicial position or absenting himself from the state for more than 60 consecutive days.

Section 11. REMOVAL AND DISCIPLINE. (1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys.

(2) The commission shall investigate complaints, make rules implementing this section, and keep its proceedings confidential. It may subpoena witnesses and documents.

(3) Upon recommendation of the commission, the supreme court may:

(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or

(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.

ARTICLE VIII

REVENUE AND FINANCE

Section 1. TAX PURPOSES. Taxes shall be levied by general laws for public purposes.

Section 2. TAX POWER INALIENABLE. The power to tax shall never be surrendered, suspended, or contracted away.

Section 3. PROPERTY TAX ADMINISTRATION The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.

Section 4. EQUAL VALUATION. All taxing jurisdictions shall use the assessed valuation of property established by the state.

Section 5. PROPERTY TAX EXEMPTIONS. (1) The legislature may exempt from taxation:

(a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.

(b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.

(c) Any other classes of property.

(2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

Section 6. HIGHWAY REVENUE NON-DIVERSION. (1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for:

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

Section 7. TAX APPEALS. The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level.

Section 8. STATE DEBT. No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

Section 9. BALANCED BUDGET. Appropriations by the legislature shall not exceed anticipated revenue.

Section 10. LOCAL GOVERNMENT DEBT. The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

Section 11. USE OF LOAN PROCEEDS. All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

Section 12. STRICT ACCOUNTABILITY. The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

Section 13. INVESTMENT OF PUBLIC FUNDS. (1) The legislature shall provide for a unified investment program for public funds and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except for monies contributed to retirement funds, no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

Section 14. PROHIBITED PAYMENTS. Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance thereof.

ARTICLE IX

ENVIRONMENT AND NATURAL RESOURCES

Section 1. PROTECTION AND IMPROVEMENT. (1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.

(2) The legislature shall provide for the administration and enforcement of this duty.

(3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Section 2. RECLAMATION. All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

Section 3. WATER RIGHTS. (1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.

(2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.

(3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

Section 4. CULTURAL RESOURCES. The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.

ARTICLE X

EDUCATION AND PUBLIC LANDS

Section 1. EDUCATIONAL GOALS AND DUTIES. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Section 2. PUBLIC SCHOOL FUND. The public school fund of the state shall consist of: (1) Proceeds from the school lands which have been or may hereafter be granted by the United States,

(2) Lands granted in lieu thereof,

(3) Lands given or granted by any person or corporation under any law or grant of the United States,

(4) All other grants of land or money made from the United States for general educational purposes or without special purpose,

(5) All interests in estates that escheat to the state,

(6) All unclaimed shares and dividends of any corporation incorporated in the state,

(7) All other grants, gifts, devises or bequests made to the state for general educational purposes.

Section 3. PUBLIC SCHOOL FUND INVIOLATE. The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

Section 4. BOARD OF LAND COMMISSIONERS. The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

Section 5. PUBLIC SCHOOL FUND REVENUE. (1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be equitably apportioned annually to public elementary and secondary school districts as provided by law.

(2) The remaining five percent of all interest received on the public school fund, and the remaining

five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolable part thereof.

Section 6. AID PROHIBITED TO SECTARIAN SCHOOLS. (1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

Section 7. NON-DISCRIMINATION IN EDUCATION. No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

Section 8. SCHOOL DISTRICT TRUSTEES. The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

Section 9. BOARDS OF EDUCATION. (1) There is a state board of education composed of the board of regents of higher education and the board of public education.

It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be

provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

Section 10. STATE UNIVERSITY FUNDS. The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed by the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

Section 11. PUBLIC LAND TRUST, DISPOSITION. (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.

ARTICLE XI

LOCAL GOVERNMENT

Section 1. DEFINITION. The term "local government units" includes, but is not limited to, counties and incorporated cities and towns. Other local government units may be established by law.

Section 2. COUNTIES. The counties of the state are those that exist on the date of ratification of this constitution. No county boundary may be changed or county seat transferred until approved by a majority of those voting on the question in each county affected.

Section 3. FORMS OF GOVERNMENT. (1) The legislature shall provide methods for governing local government units and procedures for incorporating, classifying, merging, consolidating, and dissolving such units, and altering their boundaries. The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question.

(2) One optional form of county government includes, but is not limited to, the election of three county commissioners, a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a surveyor, a county superintendent of schools, an assessor, a coroner, and a public administrator. The terms, qualifications, duties, and compensation of those offices shall be provided by law. The Board of county commissioners may consolidate two or more such offices. The Boards of two or more counties may provide for a joint office and for the election of one official to perform the duties of any such office in those counties.

Section 4. GENERAL POWERS. (1) A local government unit without self-government powers has the following general powers:

(a) An incorporated city or town has the powers of a municipal corporation and legislative, administrative, and other powers provided or implied by law.

(b) A county has legislative, administrative, and other powers provided or implied by law.

(c) Other local government units have powers provided by law.

(2) The powers of incorporated cities and towns and counties shall be liberally construed.

Section 5. SELF-GOVERNMENT CHARTERS. (1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body.

(2) If the legislature does not provide such procedures by July 1, 1975, they may be established by election either:

(a) Initiated by petition in the local government unit

or combination of units; or

(b) Called by the governing body of the local government unit or combination of units.

(3) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 6. SELF-GOVERNMENT POWERS. A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 3.

Section 7. INTERGOVERNMENTAL COOPERATION. (1) Unless prohibited by law or charter, a local government unit may

(a) cooperate in the exercise of any function, power, or responsibility with,

(b) share the services of any officer or facilities with,

(c) transfer or delegate any function, power, responsibility, or duty of any officer to

one or more other local government units, school districts, the state, or the United States.

(2) The qualified electors of a local government unit may, by initiative or referendum, require it to do so.

Section 8. INITIATIVE AND REFERENDUM. The legislature shall extend the initiative and referendum powers reserved to the people by the constitution to the qualified electors of each local government unit.

Section 9. VOTER REVIEW OF LOCAL GOVERNMENT. (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require a review procedure once every ten years after the first election.

ARTICLE XII

DEPARTMENTS AND INSTITUTIONS

Section 1. AGRICULTURE. (1) The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture.

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predator control, and livestock and commodity inspection, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

Section 2. LABOR. (1) The legislature shall provide for a Department of Labor and Industry, headed by a Commissioner appointed by the governor and confirmed by the senate.

(2) A maximum period of 8 hours is a regular day's work in all industries and employment except agriculture and stock raising. The legislature may change this maximum period to promote the general welfare.

Section 3. INSTITUTIONS AND ASSISTANCE. (1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature shall provide such economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities, or misfortune may have need for the aid of society.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. NON-MUNICIPAL CORPORATIONS. (1) Corporate charters shall be granted, modified, or dissolved only pursuant to general law.

(2) The legislature shall provide protection and education for the people against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations.

(3) The legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed.

Section 2. CONSUMER COUNSEL. The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

Section 3. SALARY COMMISSION. The legislature shall create a salary commission to recommend compensation for the judiciary and elected members of the legislative and executive branches.

Section 4. CODE OF ETHICS. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

Section 5. EXEMPTION LAWS. The legislature shall enact liberal homestead and exemption laws.

Section 6. PERPETUITIES. No perpetuities shall be allowed except for charitable purposes.

ARTICLE XIV

CONSTITUTIONAL REVISION

Section 1. CONSTITUTIONAL CONVENTION. The legislature, by an affirmative vote of two-thirds of all the members, whether one or more bodies, may at any time submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution.

Section 2. INITIATIVE FOR CONSTITUTIONAL CONVENTION. (1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

Section 3. PERIODIC SUBMISSION. If the question of holding a convention is not otherwise submitted during any period of 20 years, it shall be submitted as provided by law at the general election in the twentieth year following the last submission.

Section 4. CALL OF CONVENTION. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session. The number of delegates to the convention shall be the same as that of the larger body of the legislature. The qualifications of delegates shall be the same as the highest qualifications required for election to the legislature. The legislature shall determine whether the delegates may be nominated on a partisan or a non-partisan basis. They shall be elected at the same places and in the same districts as are the members of the legislative body determining the number of delegates.

Section 5. CONVENTION EXPENSES. The legislature shall, in the act calling the convention, designate the day, hour, and place of its meeting, and fix and provide for the pay of its members and officers and the necessary expenses of the convention.

Section 6. OATH, VACANCIES. Before proceeding, the delegates shall take the oath provided in this constitution. Vacancies occuring shall be filled in the manner provided for filling vacancies in the legislature if not otherwise provided by law.

Section 7. CONVENTION DUTIES. The convention shall meet after the election of the delegates and prepare such revisions, alterations, or amendments to the constitution as may be deemed necessary. They shall be submitted to the qualified electors for ratification or rejection as a whole or in separate articles or amendments as determined by the convention at an election appointed by the convention for that purpose not less than two months after adjournment. Unless so submitted and approved by a majority of the electors voting thereon, no such revision, alteration, or amendment shall take effect.

Section 8. AMENDMENT BY LEGISLATIVE REFERENDUM. Amendments to this constitution may be proposed by any

member of the legislature. If adopted by an affirmative roll call vote of two-thirds of all the members thereof, whether one or more bodies, the proposed amendment shall be submitted to the qualified electors at the next general election. If approved by a majority of the electors voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

Section 9. AMENDMENT BY INITIATIVE. (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise.

Section 10. PETITION SIGNERS. The number of qualified electors required for the filing of any petition provided for in this Article shall be determined by the number of votes cast for the office of governor in the preceding general election.

Section 11. SUBMISSION. If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.

ADOPTION SCHEDULE

These Schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted, determining what changes result from the vote on each of the separately submitted issues, and establishing the general effective date of this Constitution. No provision of this Schedule shall be published unless it becomes part of the Constitution as the result of the adoption of a separately submitted provision.

Section 1. This Constitution, if approved by a majority of those voting at the election as provided by the Constitution of 1889, shall take effect on July 1, 1973, except as otherwise provided in sections 1 and 2 of the Transition Schedule. The Constitution of 1889, as amended, shall thereafter be of no effect.

Section 2. (1) If separate issue 2A concerning the unicameral form of the legislature is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then:

(a) ARTICLE V, THE LEGISLATURE, shall be deleted and the following substituted therefor:

ARTICLE V

THE LEGISLATURE

Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature of one chamber whose members are designated senators. The people reserve to themselves the powers of initiative and referendum.

Section 2. SIZE. The number of senators shall be provided by law, but it shall not be smaller than 90 nor larger than 105.

Section 3. ELECTION AND TERMS. A senator shall be elected for a term of four years to begin on a date provided by law. One-half of the senators shall be elected every two years.

Section 4. QUALIFICATIONS. A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

Section 5. COMPENSATION. Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

Section 6. SESSIONS. The legislature shall be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular sessions of not more than 60

legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

Section 7. VACANCIES. A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

Section 8. IMMUNITY. A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Section 9. DISQUALIFICATION. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or the militia) under the United States or this state, shall be a member of the legislature during his continuance in office.

Section 10. ORGANIZATION AND PROCEDURE. (1) The legislature shall judge the election and qualifications of senators. It may by law vest in the courts the power to try and determine contested elections. It shall choose its officers from among its members, keep a journal, and make rules for its proceedings. It may expel or punish a senator for good cause shown with the concurrence of two-thirds of all the senators.

(2) A majority of the senators constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

Section 11. BILLS. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of non-compliance with this section only within two years after its effective date.

Section 12. LOCAL AND SPECIAL LEGISLATION. The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and shall provide for a tribunal.

(3) Impeachment can be brought only by a two-thirds vote of the legislature. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are senators and each district shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of the legislature shall each select two commissioners. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time provided, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

Section 15. REFERENDUM OF UNICAMERAL LEGISLATURE. (1) In 1980 the secretary of state shall place upon the ballot at the general election the question: "Shall the unicameral legislature form be continued?"

(2) If a majority of the qualified electors voting on the question answer in the affirmative, the form shall be continued, and this section shall be of no further effect.

(3) If a majority of the qualified electors voting on the question answer in the negative, Article V of this constitution is amended by deleting sections 1, 2, 3, 10, 13, and 14, and inserting in lieu thereof the following:

(a) "Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum."

(b) "Section 2. SIZE. The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members."

(c) "Section 3. ELECTION AND TERMS. A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years, each to begin on a date provided by law. One-half of the senators shall be elected every two years."

(d) "Section 10. ORGANIZATION AND PROCEDURE. (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

"(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

"(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

"(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

"(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting."

(e) "Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

"(2) The legislature shall provide for the manner, procedure and causes for impeachment and may select the senate as tribunal.

"(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

"(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law."

(f) "Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there

are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

"(2) In the legislative session following this amendment and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time provided, a majority of the supreme court shall select him.

"(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved."

(4) The members of the unicameral legislature shall remain in office and their authority to act shall continue until the members of a bicameral body are elected and qualified.

(5) The Senate chamber existing upon the date of adoption of this Article shall remain intact until the election provided for in this section has determined whether the unicameral legislature is to continue.

(6) When the provisions of this section have been carried out, it shall be of no further effect.

(b) The words "of each house" are deleted from subsection (2) of section 6 and from section 8, ARTICLE VIII, REVENUE AND FINANCE.

(c) The word "legislature" is substituted for "senate" in subsections (1), (2), and (4) of section 8, ARTICLE VI, THE EXECUTIVE, in subsections (1) and (2) of section 8, ARTICLE VII, THE JUDICIARY, and in subsection (1) of section 2, ARTICLE XII, DEPARTMENTS AND INSTITUTIONS.

(2) If separate issue 2A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then ARTICLE V, THE LEGISLATURE, shall be retained.

Section 3. (1) If separate issue 3A is not approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then section 9 of ARTICLE III, GENERAL GOVERNMENT shall be retained.

(2) If separate issue 3A is approved by the electors and if the proposed Constitution is approved by the electors, then section 9 shall be deleted from ARTICLE III, GENERAL GOVERNMENT and the following substituted therefor: "Section 9. GAMBLING. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the

legislature or by the people through initiative or referendum."

Section 4. If separate issue 4B is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then there shall be added to section 28, ARTICLE II, DECLARATION OF RIGHTS, the following sentence: "Death shall not be prescribed as a penalty for any crime against the state." And there shall be deleted from section 21 of the same ARTICLE the following: ", except for capital offenses, when the proof is evident or the presumption great"

TRANSITION SCHEDULE

The following provisions shall remain part of this Constitution until their terms have been executed. Once each year the attorney general shall review the following provisions and certify to the secretary of state which, if any, have been executed. Any provisions so certified shall thereafter be removed from this Schedule and no longer published as part of this Constitution.

Section 1. Accelerated Effective Date
Section 2. Delayed Effective Date
Section 3. Prospective Operation of Declaration of Rights
Section 4. Terms of Judiciary
Section 5. Terms of Legislators
Section 6. General Transition

Section 1. ACCELERATED EFFECTIVE DATE. Section 6 (SESSIONS) and section 14 (DISTRICTING AND APPORTIONMENT) of Article V, THE LEGISLATURE, shall be effective January 1, 1973.

Section 2. DELAYED EFFECTIVE DATE. The provisions of sections 1, 2, and 3 of ARTICLE V, LEGISLATURE, shall not become effective until the date the first redistricting and reapportionment plan becomes law.

Section 3. PROSPECTIVE OPERATION OF DECLARATION OF RIGHTS. Any rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive.

Section 4. TERMS OF JUDICIARY. Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed.

Section 5. TERMS OF LEGISLATORS. (1) The terms of all legislators elected before the effective date of this Constitution shall end on December 31 of the year in which the first redistricting and reapportionment plan becomes law.

(2) The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number.

Section 6. GENERAL TRANSITION. (1) The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution.

(2) The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place.

(3) All officers filling any office by election or appointment shall continue the duties thereof, until the end of the terms to which they were appointed or elected, and until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto.

OFFICIAL BALLOT

Instructions to voters: Place an "X" in the boxes which express your preferences. The full text of the proposed Constitution and the separate propositions is available for inspection at your polling place. If the proposed constitution fails to receive a majority of the votes cast, alternate issues also fail.

PLEASE VOTE ON ALL FOUR ISSUES

1.

(Vote for one)

☐ FOR the proposed Constitution.

☐ AGAINST the proposed Constitution.

THE PROPOSED CONSTITUTION WILL INCLUDE A BICAMERAL (2 houses) LEGISLATURE UNLESS A MAJORITY OF THOSE VOTING IN THIS ELECTION VOTE FOR A UNICAMERAL (1 house) LEGISLATURE IN ISSUE 2.

2.

(Vote for one)

☐ 2A. FOR a unicameral (1 house) legislature.

☐ 2B. FOR a bicameral (2 houses) legislature.

3.

(Vote for one)

☐ 3A. FOR allowing the people or the legislature to authorize gambling.

☐ 3B. AGAINST allowing the people or the legislature to authorize gambling.

4.

(Vote for one)

☐ 4A. FOR the death penalty.

☐ 4B. AGAINST the death penalty.

31

TOPIC: Highlights of Proposed Constitution
SOURCE: Montana Constitutional Convention

Copies of the attached publication, prepared for the voter information program being conducted by Convention delegates, have been reprinted by the State Superintendent for classroom use. As you will note, the publication documents some of the provisions retained from the present Constitution and lists some of the new provisions being proposed for voter ratification.

MONTANA CONSTITUTIONAL CONVENTION

1971 - 1972

HIGHLIGHTS OF PROPOSED CONSTITUTION

The enclosed summary briefly outlines the major provisions of the proposed constitution, by stating both the principal provisions of the present constitution which are retained and additional provisions added by the Convention.

The references following each provision are to article and section numbers in the proposed constitution.

This summary is not exhaustive; it only mentions some of the most popular provisions. Many other provisions, possibly of particular interest to various people, are not included.

ARTICLE II

BILL OF RIGHTS

Retained From Present Constitution

No rights protected by the present Montana Declaration of Rights are deleted or abridged in the proposed Constitution. These include the freedom of speech, assembly and religion; the right of self government; the right to acquire, possess and protect property; the right to suffrage; right to bail, and right to a trial by jury, among others. In addition, the present Montana provision guaranteeing the right to keep and bear arms is retained in total.

New Provisions Added

In addition to retention of all rights protected by the present Constitution, the proposed document would protect:

--The right to a clean and healthful environment. Section 3.

--The right to pursue basic necessities. Section 3.

--The right to know (including the right to attend meetings of public agencies and to examine the agency's records), except when the demand of individual privacy clearly exceeds the merits of public disclosure. Section 9.

--Right of privacy. Section 10.

--Right to sue the state and its subdivisions for injury to person or property. Section 18.

--The age of majority was lowered to 18 and the rights of persons under that age were given constitutional protection. Sections 14 and 15.

--Right of participation. Governmental agencies must allow citizen access to the decision making institutions of state government. Section 8.

--Right against discrimination in the exercise of civil and political rights. Section 4.

ARTICLE III

GENERAL GOVERNMENT

Retained From Present Constitution

--Rights of the people to the referendum and initiative retained. Sections 4 and 5.

--The separation of powers principle continues to receive constitutional recognition. Section 1.

New Provisions Added

--Gambling. People given choice whether to retain a complete constitutional prohibition against all forms of gabling or whether legislature should have power to legalize certain forms of gambling. Section 9.

ARTICLE IV

SUFFRAGE AND ELECTIONS

Retained From Present Constitution

--Certain election safeguards, such as protecting voters from police harassment, are continued. Section 6.

New Provisions Added

--Voting age lowered to 18. Section 2.

--Right to secret ballot assured. Section 1.

--Legislature, in its discretion, may provide for a system of poll booth registration. Section 3.

ARTICLE V

THE LEGISLATURE

Retained From Present Constitution

--Voters are given the opportunity to retain a two house (bicameral) legislature, as is now in effect.

--Terms of office remain at four years for senators and (in a bicameral body) two years for house members. Section 3.

--Certain limits on legislative power are retained, such as limitations on special laws and requirements that the title of a bill correctly reflect its contents. Section 11.

New Provisions Added

--Voters are given the opportunity to adopt a one-house (unicameral) legislature; if they do so, they automatically will vote in 1980 on whether to continue the unicameral system. Section 13.

--Legislators will be elected from single-member districts. Section 14.

--The legislature will be reapportioned by a special commission of five citizens, to whom the legislature may submit recommendations. Section 14.

--The legislature will be a continuous body, meeting in regular annual sessions of not more than 60 legislative days. A legislature may extend the session length for any necessary legislation. Section 6.

--Either the governor or a majority of the legislators may call the legislature into special session. Section 6.

--All sessions of the legislature and of its committees shall be public; all votes on substantive matters shall be recorded and made public. Sections 10 and 11.

--Candidate for legislature must be resident of state for one year and resident of county or district for six months preceding date of election. Section 4.

ARTICLE VI

EXECUTIVE

Retained From Present Constitution

--Governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction and auditor retain present constitutional elective status. Section 1.

--Number of principal executive departments limited to 20. Section 7.

--Governor's pardon and military powers retained. Sections 12 and 13.

New Provisions Added

--Governor and lieutenant governor run as a team in both primary and general election; lieutenant governor freed of duty of presiding over the Senate so that he may take a more active, fulltime role in the executive branch. Section 2.

--Constitutional status of Board of Pardons, Board of Examiners, State Examiner, Board of Prison Commissioners and State Treasurer eliminated. (No mention in proposed constitution).

--Procedures for determining gubernatorial disability outlined. Section 8.

--Changes made in the governor's veto power. He no longer would be able to veto proposed constitutional amendments; on the other hand, he would be granted the "amendatory veto", under which he could return a bill to the legislature with proposed amendments. Section 10.

--Pocket veto was eliminated. Section 10

--Lieutenant governor not to act as governor until the Governor out of state 45 days or unless the Governor authorizes lieutenant governor in writing to act as Acting Governor. Section 14.

--Clarifies method of filling vacancies in executive offices. Section 8.

--Lowers qualification regarding age of Governor, Lieutenant Governor from 30 to 25. Section 3.

--Requires 5 years actual practice for Attorney General. Section 3.

ARTICLE VII

JUDICIARY

Retained from Present Constitution

--Supreme Court jurisdiction and district court criminal jurisdiction retained. Sections 2 and 4.

--Judicial districts same. Section 6.

--Three-level court system retained, including justice of the peace courts. Section 1.

--Election of all judges retained. Section 8.

New Provisions Added

--Method of filling vacancies. If a district or supreme court judge resigns or dies, the governor must select a replacement from a list of candidates as provided by law and confirmed by the senate. Section 8.

--Merit retention of judges. If a judge in office decides to run for re-election but has no opponents for the office, his name is placed on the ballot for the electorate to approve or reject. Section 8.

--Terms of office for supreme court increased from six to eight years; district court terms increased from four to six years, and justice of the peace terms increased from two to four years. Section 7. The legislature is empowered to increase membership of the supreme court to seven. Section 3.

--Judicial standards commission. Added to allow citizens to bring complaints about judges to an independent commission to investigate and recommend retirement, removal or suspension of the judge in question to the supreme court. Section 11.

--Clerk of supreme court no longer a constitutional officer. (No mention in proposed constitution).

--Number of justices of peace restricted to one per county. Salaries of justices of peace provided by legislature. Section 5.

ARTICLE VIII

REVENUE AND FINANCE

Retained from Present Constitution

--Requirement retained that taxes must be levied by general law for public purpose. Section 1.

--Provision providing that the state shall never surrender or contract away its taxing power is retained. Section 2.

--Provision against diversion of gasoline tax and other highway revenue to uses other than those related to highways was retained, but made more flexible by allowing legislature to use the revenue for other purposes upon approval of three-fifths of the membership of each house. Section 6.

New Provisions Added

--Responsibility for system of property appraisal, assessment and equalization placed at state level; details of the program left to the legislature. Section 3.

--Local debt left to legislative determination. The present prohibition against state financial aid to local government units eliminated. Section 10.

--The legislature is given increased latitude in determining what property should or should not be granted tax-exempt status. As a matter of fact we no longer say that all property must be taxed and the Legislature can decide what should be taxed. Section 5.

--State debt may be authorized by either (a) a two-thirds vote of each house of the legislature or (b) a majority of the people voting on the issue. Section 8.

--The legislature is charged with strict accountability and proper investment of state funds, with some limitation on investment of public school money. Sections 12 and 13.

--The legislature will provide for an independent appeal procedure for taxpayer grievances. Section 7.

ARTICLE IX

ENVIRONMENT AND NATURAL RESOURCES

Retained From Present Constitution

(No provisions retained because this is a new article. Several related provisions in various articles of present constitution are retained in other articles of the proposed constitution.)

New Provisions Added

--The state and each citizen is directed to maintain and improve a clean and healthful environment; the legislature is directed to provide adequate remedies to protect the environment. Section 1.

--All land disturbed by the taking of natural resources must be reclaimed as provided by law. Section 2.

--Water rights are given constitutional recognition; all water is declared to be the property of the state for the use of its people. Section 3.

--The legislature is directed to provide for identification and preservation of the state's cultural and historical resources. Section 4.

ARTICLE X

EDUCATION AND PUBLIC LANDS

Retained From Present Constitution

--The legislature and other governmental units continue to be prohibited from spending money for sectarian purposes, but a revision specifies that the prohibition does not apply to federal funds provided expressly for distribution to non-public education. Section 6.

--Constitutional protection of investment of public school fund, and constitutional status for the Board of Land Commissioners are continued. Constitutional direction for holding and disposing of public lands is continued. Sections 2, 3, 4, and 11.

--The present provision against discrimination in education is retained and substantially broadened. Section 7.

New Provisions Added

--Two distinct boards (one for higher education and one for public education) are created, differing from the present situation where one board is responsible for all education matters. The two boards jointly form a third (the state board of education), which

is responsible for long-range planning and policy and program coordination and evaluation for the state's educational system. Section 9.

--The Board of Regents of Higher Education is expressly given "full power, responsibility, and authority" to control the Montana University System. Section 9.

--Local school trustees are guaranteed "supervision and control" over local schools. Section 9.

--The "distinct and unique cultural heritage" of American Indians receives constitutional recognition; one of the state's educational goals is stated to be preservation of Indians' cultural integrity. Section 1.

ARTICLE XI

LOCAL GOVERNMENT

Retained From Present Constitution

--Counties can be consolidated only with the approval of the residents of each county affected. Section 2.

--The legislature is directed to provide alternative forms of city and county or city-county consolidated government; such alternative forms, however, cannot be adopted without approval of local voters. Section 3.

--Counties which wish to retain the so-called "traditional" form of county government--three county commissioners and 10 other elected officials--are assured that they may do so. Section 3.

--Unless the local voters wish to adopt a different system in their city or county, local government units will continue to have only those powers given them by the legislature. Section 3.

New Provisions Added

--Two or more counties may agree to elect one official to serve a multicounty area; in addition, offices within a county continue to be subject to consolidation. Section 3.

--The legislature is ordered to provide procedures by which local voters may design their own forms of government--called self-government charters. Section 5.

--A new class of self-government powers is provided for those units which, with voter approval, have adopted their own charters or adopted a self-government form offered by the legislature. These units may exercise all powers except those prohibited by the constitution, state law or the local charter. Section 6.

--Local government units are given broad authority to cooperate and share services and functions in about every way imaginable. Section 7.

--Residents of a city or county are assured an opportunity within four years after adoption of the constitution to vote on whether they want to change their form of government. Such voter review of local government will be repeated at 10-year intervals. Section 9.

ARTICLE XII

DEPARTMENTS AND INSTITUTIONS

Retained From Present Constitution

--The Department of Agriculture continues its constitutional status; special levies for agricultural purposes also receive continued constitutional authorization. Section 1.

--The legislature is directed to provide for a Department of Labor and Industry. Section 2.

--A maximum of 8 hours is defined as a "regular day's work" in all industries except agriculture and stockraising; however, the legislature may redefine that maximum. Section 2.

--Public institutions and facilities shall be provided as the public good may require, including veteran's homes. Section 3.

New Provisions Added

--Primary responsibility for welfare assistance is placed on the legislature, rather than the counties as is now the case. Section 3.

--Restoration of rights of persons committed to institutions. Section 3.

ARTICLE XIII

GENERAL PROVISIONS

Retained From Present Constitution

--Corporate charters shall be granted, modified, or dissolved pursuant to law. Section 1.

--Legislature is directed to enact liberal homestead and exemption laws. Section 5.

--Perpetuities are prohibited, except they may be allowed for charitable purposes. Section 6.

New Provisions Added

--Salary commission created to recommend compensation for judiciary and elected members of the legislative and executive departments. Section 3.

--The legislature is directed to provide for an office of consumer counsel to represent the public before the Public Service Commission. The office is to be funded by a special tax on the regulated companies. Section 2.

--The legislature is charged with providing protection and education against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations. Section 1.

--The legislature must provide for a code of ethics prohibiting conflicts of interest of state and local officers and employees. Section 4.

ARTICLE XIV

CONSTITUTIONAL REVISION

New Provisions Added

--Changing the constitution made easier. Amendments and constitutional conventions could be proposed by initiative petitions from the people, as well as by action of the legislature. The present limit on the number of constitutional amendments on any one ballot would be removed. Sections 1, 2, 8, and 9.

--The question of whether to call a constitutional convention would automatically be submitted to the voters every 20 years. Section 4.

32

TITLE: "The Proposed 1972 Constitution" Tabloid
SOURCE: Community Services Programs (Title I of HEA) and Concerned Citizens for Constitutional Improvement

Attached is a copy of a public information tabloid distributed May 21 in Montana's daily newspapers. Copies were made available for inclusion in the "File" by Dr. Pierce Mullen, director of the project that published the tabloid.

Constitutional Convention

We're getting a new Constitution

In this section

About this issue 2
Picture page, delegates in action 3
Why convention was called 4
How John Q. Public can participate 5
History of previous conventions 6
Bill of rights, environment 7
Convention's leadership 8
Who delegates are: gambling 9
Legislative revision 10
Unicameral vs. bicameral 11
Governor; weak or strong? 12
What quality justice? 13
Taxing our state 14
Mining and parochial schools 15
Governments built on words 16
Who should control education? 17
'Home rule' for cities 18
Suffrage; biographies of delegates 19
Pictures, biographies of delegates 20

Con Con costing $690,000

Nearly $690,000 in state funds is going into re-writing Montana's 82-year-old constitution.

The constitutional convention, which reconvenes this week, has a state appropriation of $499,281—enough for 60-80 working days.

The appropriation will be spent mainly to hire administrative, clerical and research staff and to pay delegates. Delegates receive the same pay as legislators—$45 a day, plus mileage reimbursement for three trips between their home and Helena.

In addition, the 1971 legislature appropriated $149,540 for the Constitutional Convention Commission, the appointed group which arranged for convention preparations and research.

Most of the commission's budget has been spent to hire a professional research staff and print their reports. Any money left in the commission budget Feb. 1 goes into the general convention budget.

The remaining $41,000 of the total state appropriation of $689,821 was allocated to the secretary of state for the special September and November Con-Con elections.

In appropriating money for the convention, the legislature also anticipated a federal grant of $146,461, but it never materialized.

This issue's authors

HUTCHINSON

FOLEY

CURRAN

HETTICK

Publication of this special issue about the Montana Constitutional Convention is the culmination of planning which began four months ago, before delegates were even elected.

Reporters in the Lee Newspapers State Bureau recommended to superiors that a special issue be published as a public service, without advertising. The idea was approved by Strand Hilleboe, operations manager of Montana Divisions of Lee Enterprises Inc., and endorsed by publishers and editors of the Billings Gazette, Missoulian, Montana Standard in Butte and Independent Record in Helena.

Dale A. Harris, then executive director of the Montana Constitutional Convention Commission and now executive director of the convention, has been most helpful from the beginning.

Reporters in the Lee Bureau used numerous sources in compiling information and writing stories, but depended most heavily on reports by the commission's staff of researchers: P. Rick Applegate (bill of rights), Roger A. Barber (taxation and finance), Richard F. Bechtel (legislature), Karen D. Beck (executive), James T. Grady (suffrage and elections), Jerry R. Holloron (local government), Sandra R. Muckelston (judiciary) and Bruce R. Sievers (education). Without the help of those individuals, this publication would not have been possible.

The issue was printed at the Billings Gazette plant on an offset press. The following newsmen did the writing, editing and photographing:

DANIEL J. FOLEY, 29, is chief of the Lee Newspapers State Bureau. He is a native of Laurel and was graduated from the University of Montana, with a bachelor's degree in journalism, and Northwestern University, Evanston, Ill., with a master's degree in journalism. Foley has been with the State Bureau for three-and-one-half years and has been bureau chief since April. He and his wife, Lela, have two children.

DENNIS E. CURRAN, 27, has been with the Lee State Bureau since June. He is a native of Madison, Wis., and was graduated from the University of Wisconsin with a bachelor's degree in history. He also did graduate work in journalism at the school. Curran was a reporter with the Missoulian for four years before his transfer to the State Bureau. His wife's name is Julie.

ARTHUR P. HUTCHINSON, 43, has been with the Lee State Bureau for two years. Born in Philadelphia, he was brought up in Connecticut and came to Montana in 1954. Hutchinson was graduated from Bates College, Lewistown, Maine, with a bachelor's degree in geology. Before joining the State Bureau, he worked as a mining engineer in Butte for the Anaconda Co. from 1954-57 and was a newsman with United Press International. He and his wife, Patricia, have four children.

HARLEY HETTICK, 29, took the pictures of the Constitutional Convention organization session which appear in this issue. He is a native of Bismarck, N.D., and spent two years at Bismarck Junior College and two years at Dickinson State College. Hettick has been photographer for the Missoulian for four years.

Cover art was designed by Craig Curtiss of The Billings Gazette, as were the caricatures throughout the section. Art work depicting early and present day convention presidents on page 8 was done by Joe Boddy of The Missoulian and other art work was done by John Watson of Butte Montana Standard.

MONTANA CONSTITUTIONAL CONVENTION · OF THE PEOPLE · BY THE PEOPLE · FOR THE PEOPLE · 1971-1972 ·

"A constitution states or ought to state not rules for the passing hour but principles for an expanding future."
—Justice Benjamin Cardozo

From rapt attention to relaxation. The varied reactions to action on floor of Constitutional Convention are from Dorothy Eck of Bozeman and Dave Drum, Billings (upper left); unidefintified cigar smoker at lower right; R. J. Studer, Billings, (upper right); Marian Erdmann, Great Falls; and Robert Kelleher, Billings, (lower right.)

"Provisions which invite subterfuge, provisions which are archaic, provisions which are ambiguous, provisions which are statutory, and provisions which place serious limitations an effective state government were found throughout the Montana constitution."

—Montana Legislative Council report on the Montana Constitution, 1968

How Montana got into this

Constitutional Convention delegates open session with prayer, pledge and taking of oath.

A decade of discontent over a variety of constitutional maladies helped bring the historic decision by Montana voters to call a constitutional convention.

While Montana's 1889 constitution had served the state well in many respects, by the early 1960s it was apparent to many, both in and out of government, that some doctoring was necessary

GRUMBLING OVER the constitution grew louder and louder during the decade as more and more people began to see in the constitution faults and limitations as well as virtues.

Complaints came not only from legislators and city councilmen but civic groups like the League of Women Voters. Special citizens' conferences were formed to explore such topics as legislative and judicial reform

Critics of the constitution said its language was too often long-winded and confusing; sometimes it contained specifics better written into the statutory law books. Most important, they complained, it too often shackled government.

Like many constitutions of the late 19th Century, Montana's fundamental law often reflects the distrct people felt then for government in general and the legislature in particular.

Some constitutional provisions, critics contend, not only protect the people by preventing government from taking bad actions, they prohibit government from taking any actions at all.

The Legislative Council studied the constitution in 1967-68 and concluded that "substantial revision and improvement" was needed to provide for "active, dynamic government "

The council recommended that of the 262 sections in the constitution, 85 should be repealed entirely and another 53 should be revised—a total of 52 per cent

Only 48 per cent of the sections were deemed "adequate," and even there the council suggested there was room for improvement. Moreover, the council's approach was basically conservative—it generally did not consider constitutional alternatives which would dramatically restructure government.

THE COUNCIL said it found constitutional provisions which "invite subterfuge" and are "archaic, ambiguous and statutory and which place serious limitations on effective state government."

However, the council members could not agree on any "best" method of revising the constitution and finally concluded that the legislature should establish a constitutional revision commission.

The 1969 legislature established a revision commission, but it also decided to ask the people in a 1970 general election referendum if they wanted a constitutional convention.

The 16-member revision commission began its study of the constitution quickly and even had subcommittees "drafting" proposed constitutional changes.

But by late 1969 the commission decided that revision was such an enormous task, it would be better accomplished through a constitutional convention. So the commission stopped drafting and started pushing for a favorable vote on the referendum.

In June of 1970 still another group was organized—the broad-based, bi-partisan Montana Constitutional Convention Committee, which plugged for passage of Referendum 67 to call the convention.

THE PEOPLE agreed. Referendum 67 was approved by the overwhelming margin of 133,482 to 71,643; for the first time since becoming a state, Montana would have a constitutional convention

The groundwork was laid by a specially appointed Constitutional Convention Commission, and on Nov. 29, 1971 Gov. Forrest H. Anderson called the convention to order for a three-day organizational session. Since then, the 100 delegates have been studying constitutions of other states and research reports prepared by a professional staff

This week the delegates will reconvene in Helena to begin work on the directive from the people to "revise, alter or amend" the Montana Constitution.

In theory, a transition

Montana's government isn't likely to collapse in chaos if the voters approve a constitution which brings a new look to the highest law in the state.

Whether changes involve minor rewording or major restructuring, the predecessors of the Constitutional Convention were wise enough to provide for some transition between old and new

Under the enabling act passed by the last legislature, the convention must set dates for the various revisions to take effect if approved by the voters

WHILE SOME provisions could go into effect on passage, others probably will require time, perhaps even several years, to implement.

The legislature also provided for taking care of any statutory law which could be supposed to outline the general structure and fundamental principles of the state The detailed mechanics of those principles, however, are to be left to statutory law passed by the legislature—law which an be changed from time to time with greater ease than the constitution.

Montana's 1889 constitution is full of such statutory provisions, and the delegates are expected to get rid of many of them—from the constitution, that is, not the lawbooks.

UNOER THE ENABLING act the convention may prepare a schedule of proposed legislation which would implement any new constitutional provisions or replace statutory language dropped from the constitution.

Delegates won't pass the laws themselves, but they will suggest provisions for the 1973 legislature to consider

In theory, it would provide a transition similar to executive reorganization. The "20's Plenty" constitutional amendment was passed in 1970, the 1971 legislature set up the mechanics with an executive reorganization law; and the governor is now implementing the law

Any proposed constitutional revisions will go before the voters, probably in the Nov 7, 1972, general election

John Q. will have last word

The most important man in the rewriting of Montana's Constitution won't be the convention president or any of the delegates, but the ultimate "consumer," John Q. Citizen.

John Q. gets the final vote on the document the delegates will propose, and if old John isn't satisfied, he won't be buying.

Early in the work session, convention delegates will consider adoption of several rules aimed at ensuring the education of and participation by John Q. in the convention process.

The two most significant recommendations are that all convention meetings be open to the public and the press and that seven days notice be given for all hearings.

ONE PROPOSAL for giving John Q. some direct influence on the convention is to accept "citizen suggestions," which would be referred to the appropriate committee in the same manner as delegate proposals

MOST OF THE WORK during the first month or more will be in public hearings and committee meetings. Most of the hearings will be in Helena, although consideration is being given to having a few elsewhere in the state. Because funding for the convention may limit travel, it is more likely that delegates will take a recess or two during the work session to return home to get citizen reaction.

Unlike legislative sessions, each proposal from a delegate (or citizen) need not be acted upon individually.

It is more likely that public hearings will be scheduled on each major issue The legislative committee, for example, probably will have a hearing on unicameral vs. bicameral legislature, another on annual vs. biennial sessions and others on different topics.

Committees will then draft an article, based on individual proposals, staff research and public hearings. A majority report and, in instances of committee disagreement, a minority report will be printed and forwarded to the convention floor for debate and adoption.

THE CONSTITUTION finally adopted by the entire convention will be submitted to the voters for approval or rejection. Some of the more controversial subjects probably will be put to a separate vote to prevent the entire document from being defeated because of one or two provisions.

The submission of the new document to John Q. Citizen must be no earlier than two months nor later than six months after the convention adjournament.

If the convention takes the anticipated 60-80 days, delegates may ask for John Q's approval either in the June primary or in the November election.

In the latter case, the document would have to be signed in a special session for that purpose in May.

PARTICIPATION

Committees

The following are the committee assignments made by Constitutional Convention President Leo Graybill Jr. at the organization meeting Nov. 29-Dec. 1. The first name listed is that of the chairman.

The 10 substantive committees

Bill of Rights: Dahood, Blaylock, James Monroe, Mansfield, Sullivan, Murray, R. S. Hanson, Campbell, Foster, Eck.

Legislative: Ashbrenner, Leuthold, Skari, Daniel Bates, Romney, Cate, Harper, Robinson, Nutting, Johnson, Reichert, Kelleher, Toole, Bates, Leuthold

Executive: Joyce, Garlington, Roeder, Arbanas, Warden, Wilson, Babcock, Martin, Felt

Judiciary: Holland, Pemberton, Melvin, Eskildsen, Rod Hanson, Aronow, Schiltz, Bowman, Berg

Local Government: Oscar Anderson, Blend, Arness, Rollins, Sparks, Payne, Ask, Erdmann, Speer, Jacobsen, Simon

Revenue and Finance: Rygg, Driscoll, McKeon, Artz, McDonough, Wagner, Drum, Berthelson, Furlong

Education and Public Lands: Champoux, Noble, Davis, Cain, Garnaer, Harbaugh, Barnard, Harrington, Woodmansey, Burkhardt,

Public Health, Welfare and Labor: Helding, Ward, McCarvel, Burkett, Svrjcek, Scanlin, Mahoney, Studer

Natural Resources and Agriculture: Cross, Gysler, Brazier, Siderius, John H. Anderson Jr., Kamhoot, Delaney, McNeil, Rebal

General Government and Constitutional Amendment: Eckhart, Harlow, Vermillion, Lorello, Belcher, Choate, Brown, Habedank

The four procedural committees

Administrative: Toole, Eck, Bowman, McKeon, Furlong, Noble, Rod Hanson, Simon, Rygg, Cross

Style, Drafting and Transition: Schiltz, Burkhardt, Holland, Blend, Blaylock, Roeder, Speer, Carlington, Loendorf, Berg, Kelleher

Rules and Resolutions: Murray, Eskildsen, Bates, Romney, Erdmann, Ask, Joyce

Public Information: Toole, Warden, Brown, Sparks, Vermillion, Champoux, Martin, Pemberton, Woodmansey, Davis, Payne, Bugbee, Babcock

Your clout can be used

How can an average citizen influence the work of the Constitutional Convention?

Here are some ways

1. SUBMIT A "CITIZEN SUGGESTION." Many delegates already have spoken in favor of the idea, which was used in the Hawaii convention. The proposals, which can be in the form of minor provisions or entire articles, will be referred to the proper committee for consideration.

2. TESTIFY AT A PUBLIC HEARING. Testimony will be remembered better if it is submitted in written form as well as read Convention officials recommend that 15 or 20 written copies be provided by those testifying, but the extra copies are not required

3. WRITE TO YOUR DELEGATE REPRESENTATIVES. Address correspondence to The Honorable (Delegate's Name), Montana Constitutional Convention, State Capitol, Helena, Montana 59601

4. VOTE ON THE FINAL DOCUMENT. The Constitution drafted by delegates is only a proposal to the people. Citizens of the state will exercise the final decision whether the proposal is or is not worthy of status as the state's fundamental law

Statehood spurred present constitution

1889

The drafting of Montana's existing Constitution in 1889 marked the end of a quarter century of frustration in the quest for statehood

The 1972 convention, called to update that document which has survived 82 years with only a few modifications, will be the fourth in the history of the territory and state.

It will, however, be the first called by the people Previous conventions were convened by the acting governor (1866), the territorial legislature (1884) and congressional enabling legislation (1889)

Each of those conventions, plus several formal appeals by the legislature, were aimed at ending a territorial government described by the 1883 assembly as "little better than the colonial system under British rule"

The territorial governor, secretary and three Supreme Court justices were appointed by the President of the U.S., often for party service elsewhere

Residents of the territory elected a delegate to the U S House of Representatives who could debate and serve on committees, but not vote Montanans also elected members to a two-house territorial legislature, but Congress had authority to review acts of the assembly and, in fact, annulled the entire body of law passed in 1866

ALSO SPURRING the desire for statehood was the need for investment money from the states for both the mining and agriculture industries, investment more likely under statehood than territorial status

The first convention, assembled in 1866 when the territory was only two years old, was called by Acting Gov Thomas F Meagher It met in Helena instead of Virginia City then the territorial capital

Fifty-five delegates were elected, but the convention had difficulty assembling a quorum It met for six days and adopted a constitution reportedly based on the proposed Colorado constitution, with modifications borrowed from New York and California

To this day, historians aren't sure what became of that constitution, although the traditional account has been that the document was lost somewhere between Montana and St. Louis, where it was to be taken for printing

THE TERRITORIAL legislature appealed to Congress for statehood on several occasions between 1866 and 1883, but the requests did not meet with favorable response In 1884, 45 delegates gathered in Helena, by then the territorial capital, for a convention called by the legislature

The convention met for 27 days and drafted a body of fundamental law which in large part was carried over by the convention which was to follow five years later That 1884 document was approved by Montana voters 15,506 to 4,266, but Congress continued to delay admission of western territories because of partisan fighting in the nation's capital

The congressional deadlock finally ended after the election of 1888 With passage of the Omnibus Act of Feb 22, 1889, Congress invited Montana, Washington, North Dakota and South Dakota to meet in conventions aimed at statehood.

The Montana convention convened on July 4 and banners across Helena's Last Chance Gulch proclaimed "Independence Forever"

The 75 delegates debated for 45 days, their 800,000 or so words still preserved in the official proceedings of the convention, and incorporated an estmated 90 per cent of the wording of the 1884 document in the new constitution

THAT THE DESIRE for statehood was strong among the residents of the territory and the delegates is evidenced by the resulting compromises between divergent views of the populous and wealthy mining counties of western Montana and the sparsely populated and poorer agricultural counties of the eastern part of the territory

Compromise did come, with the mining tax exemption of the 1884 convention written into the new document to benefit the west and legislative apportionment providing one Senator for each county to benefit the east

At least 33 of the 75 members of the 1889 convention were engaged in mining, held mining stock, dealt in mining law or had some other direct mining connection Many were indirectly involved with the industry, including merchants and farmers whose livelihood depended on mining towns Twenty-three delegates were lawyers and nine were stockmen Chairman of the convention was W A Clark of Silver Bow County, a captain of the mining industry and a banker, who also chaired the 1884 convention

The document drafted by delegates reflected the prevailing views of the time, a distrust of government, as evidenced by restrictions on the legislature and division of authority, in the executive branch, and a distrust of big corporations, especially railroads

The document was ratified by the voters 26,690 to 2,274 and President Benjamin Harrison proclaimed Montana the 41st state on Nov. 8, 1889.

1972

Mae Nao Robinsoo
ConCon's
youngest delegate

New look for bill of rights

Montana's bill of rights could have a new and expanded look after the work of the 1972 Constitutional Convention.

Delegates probably won't tamper much with the abiding principles which have protected the people from the politicians for centuries. But they probably will consider adding some new rights to protect people from new threats emerging in the 20th Century

Provisions like a right to a clean environment, a right to privacy and a right to education likely will receive serious consideration. Other issues likely to face delegates include abortion, housing, discrimination, secrecy and wiretapping.

Ironically, concern for new rights comes at a time when some suggest that state bills of rights are no longer needed because of the extension of the federal Bill of Rights to the states

But a Constitutional Convention Commission research report on the Montana Declaration of Rights observes that the federal government has not always been the staunch defender of civil rights it is today and it may not be tomorrow

Declarations of rights—the formal assertion of liberties and protection against infringements by government—date back through English common law and the Magna Carta to classical Greece

In America, bills of rights originated with the colonies. The first 10 amendments of the federal constitution—the federal Bill of Rights—were an afterthought and were extended to the states only through court decisions.

An argument for retaining strong state declarations of rights, the report says, is that states can serve as "little laboratories" to develop and test new rights

Both the Montana Legislative Council and a Constitutional Revision Commission subcommittee concluded in their studies that 21 of the 31 sections are adequate; collectively, they recommended deleting only four sections However, most critics agree that some rewording and reorganizing of the helter-skelter order would help

Beyond that lies possible extension of rights or formation of new ones, including these

—PRIVACY. Historically, privacy may have been a revered principle, but it was not written into early American constitutions

—EDUCATION. Most constitutions impose duties of education on state government, but only North Carolina and Puerto Rico state what many feel is a fundamental principle—a right to education. Such provision would not only include the right to an education but often some freedom of choice to prevent citizens from being dominated by an educational system.

OTHER "SERVICE RIGHTS like right to medical care, work and adequate housing According to proponents, these service rights are needed to protect the people in a modern age Opposition is based not so much on the principles themselves but their place in a constitution Most critics say such rights are neither fundamental nor enforceable and should be left to the legislature.

—SECRECY. Growing concern that the public's right to know is being thwarted by a maze of governmental secrecy has prompted some interest in writing a broad right-to-know provision in the constitution

—SEARCH and Seizure Montana's provision on searches fails to mention electronic eavesdropping and wiretapping Some think it should

—ABORTION. While abortion reform battles often are fought in legislatures, proponents likely will push for a so-called "women's right" in the constitution

—DISCRIMINATION. While the Montana Constitution declares all people to be born "equally free," some think the language should prohibit discrimination on the basis or race, creed, sex, and ethnic origin.

"... Some think the language should prohibit discrimination on the basis of race, creed, sex, and ethnic origin."

Life, liberty and clean environment

Do Montanans have a right to a clean, healthy environment?

Neither the United States Constitution nor the 1889 Montana Constitution specifically state such a right, but there is a growing trend to add explicit environmental provisions to constitutions

The issue likely will be the least controversial of a trio of environmental issues facing Constitutional Convention delegates. The others, according to a Constitutional Convention Commission report on environmental rights

—Enforcement provisions, including giving citizens the right to sue to prevent environmental degradation

—Extension of the "public trust doctrine" from state control over land and water to state authority over use of land and the total environment

SOME CONSTITUTIONAL scholars contend that a right to a clean environment is implied in federal and state constitutional rights protecting "life, liberty and the pursuit of happiness" or guaranteeing "unenumerated rights" not specifically written down

While Montana's new Environmental Policy Act already states a "right" to a clean environment, many feel the right also belongs in the fundamental law

But the commission report notes that simply stating the right may be "yesterday's battle" and probably won't draw any great opposition The real issue, the report said, is enforcement

SOME STATES give citizens the right to sue both governmental agencies to make them act and private persons or corporations to stop real or potential pollution The important point is that citizens would not have to suffer actual damages from environmental degradation and could take action before any pollution occurred

At least nine states and the federal government are considering extensions of legal standing to sue The 1971 Montana Legislature rejected four such proposals

Probably more controversial will be proposals to extend the "public trust doctrine" to give the people of the state a voice in determining that all land is used in the best public interest

The public trust doctrine arises under the state's power of "eminent domain"—the power of the state to take private property, with just compensation, for public use The theory behind this power is that all land ultimately belongs to the people

Under the trust doctrine, the state in effect is the public guardian for land which is part of a public trust and must see that the land use would not harm the public interest

"In the highest sense," Teddy Roosevelt's National Conservation Commission said in 1909, the resources "should be regarded as property held in trust for the use of the race rather than a single generation and for the use of the nation, rather than individuals who may hold them by right of discovery or purchase"

MONTANA RESTRICTIONS to insure air, water and wildlife quality are based on the public trust doctrine, though the Montana Constitution does not state the theory explicitly as some states do

The report calls an expanded trust doctrine "a blanket tool" and possibly "the most pervasive source of legal protection" for preserving the environment

W. A. Clark, president of 1889 convention, and Leo Graybill Jr., president of 1972 convention.

Where party labels don't mean so much

A bipartisan leadership team gives the 1972 Constitutional Convention the look of a gathering where party labels don't mean so much.

The five convention leaders (two Democrats, two Republicans and an independent) provide the convention with a political and geographical balance which some thought impossible at the start of the three-day organizational session last November. Committee assignments and chairmanships also reflect the diversity of the convention with balance between parties, geographical areas, women and men, occupation and outlook. Chairmanships are held by seven Democrats, six Republicans and one independent.

AND DELEGATES took a big step toward minimizing factions when they voted to continue sitting in a alphabetical order rather than by party or district.

The elected convention leaders are:

—PRESIDENT LEO Graybill Jr., a Great Falls Democrat. Graybill, a 47-year-old attorney, ran unsuccessfully for Congress in the Eastern District in 1960 and 1962, and his father is a former speaker of the Montana House. Graybill is chairman of the Great Falls International Airport Commission and a former deputy county attorney. He has a degree from Yale University and a law degree from the University of Montana, where he once taught political science. Graybill's wife, Sherlee, owns a Great Falls radio station. The couple has three children.

Leo Graybill Jr.
President

—FIRST VICE PRESIDENT John H. Toole a Missoula Republican. Toole, 53, is associated with a Missoula bond-insurance firm. Although he served in the 1953 Legislature, he is best known for his work in nonpolitical civic projects. In recent years he has led businessmen in downtown and riverfront development projects. Toole formerly served on local planning and park boards, the Montana Crime Control Commission and the Columbia River Compact Commission. He and his wife, Barbara, have two children. His grandfather, John R. Toole, was a delegate to the 1889 convention.

—EASTERN DISTRICT Vice President Bruce M. Brown, a political independent from Miles City. Brown, a 49-year-old attorney, was defeated by Graybill for the convention presidency. A University of Montana graduate, Brown is a former city and county attorney. He and his wife Margaret, have five children.

—WESTERN DISTRICT Vice President Dorothy Eck, a Bozeman Democrat. Mrs. Eck, 47, is a former president of the Montana League of Women voters and was active in the push for constitutional revision. Listing her occupation as housewife and civic worker, Mrs. Eck has two degrees from Montana State University, where she once taught briefly and where her husband, Hugo, is a professor of architecture. The Ecks have two children.

—SECRETARY JEAN M. BOWMAN, a Billings Republican. Mrs. Bowman, 33, is a housewife and is active in the League of Women Voters, where she headed an in-depth study on the need for constitutional revision. Educated at the University of New Mexico and the University of Pennsylvania, Mrs. Bowman also is a member of the Yellowstone Air Pollution Control Board. She and her husband, Warren, a Billings doctor, have four children.

Jean M. Bowman
Secretary

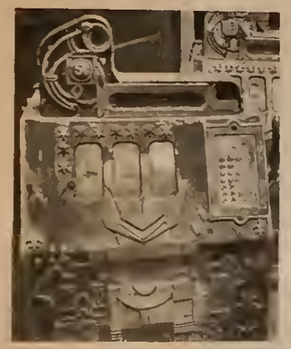
John H. Toole
First Vice President

Bruce M. Brown
Eastern V-P

Dorothy Eck
Western V-P

MONTANA CONSTITUTIONAL CONVENTION
OF THE PEOPLE · BY THE PEOPLE · FOR THE PEOPLE
1971 - 1972

Gambling won't be overlooked



Lotteries are forbidden in Montana, but Thomas Jefferson used them to sell land, Benjamin Franklin to buy cannons for defense and Harvard College to raise operating funds.

The legalized gambling issue, with all its moral, philosophical and sociological overtones, cannot be avoided by convention delegates.

Their Victorian era predecessors, reflecting the views of that time, both laid down a restriction and imposed a duty on the Legislature.

"The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose," the fundamental law decries. It further orders that the Legislature "shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state."

Like the participant in a shell game at an old county fair, delegates appear to have three choices.

THE CONVENTION could retain the existing language or similar words. At the other extreme it could take the unlikely course of specifically authorizing lotteries.

The middle course would be to omit any mention of gambling in a new document, thus leaving the legislature sole discretion of whether to permit gambling and, if so, what forms.

Interest in state-run lotteries has been revived recently because of governments' need for revenue and the public's resistance to high taxes, but the decision probably will hinge on the moral and social views of the delegates.

No such conflicts tugged at the consciences of the delegates of 82 years ago. To a man they believed a gambling sanction would not benefit the new state.

The modern trend toward state lotteries was begun in 1964 by New Hampshire. New York and New Jersey followed. Pennsylvania, Massachusetts and Connecticut organized lotteries late last year.

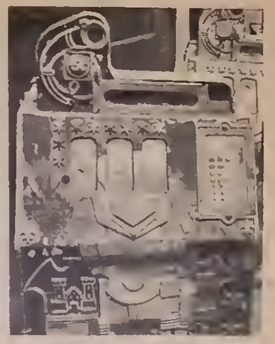
A COMMON FEATURE is that they are "sold" to the public as benefitting a special public interest, usually schools. New York and New Hampshire earmark the revenue for schools, New Jersey for schools and institutions, Pennsylvania for property tax relief and Massachusetts for aid to cities and towns.

How much revenue a lottery would return in Montana is questionable. Urban New Jersey, with 10 times Montana's population, has the most successful lottery, earning $70 million a year.

The lottery in New Hampshire, a nonurban state similar to Montana but with a third more population, yields only $2 million a year.

Montana has not ignored the trend. Every legislature since 1963 has received a proposal to repeal the antigambling section, usually accompanied by a bill to establish a state lottery or authorize bingo games and raffles by religious, fraternal and charitable groups.

A bill was passed in 1969 that would have authorized bingo and raffles but it was vetoed by Gov. Forrest H. Anderson.



More lawyers, less ranchers

Ask of Roundup

Lawyers Cate, Billings and Campbell, Missoula

The Constitutional Convention will have plenty of legal assistance in drafting its new version of the state's fundamental law.

Of the 100 delegates, 24 are lawyers, giving the legal profession the largest representation among occupational groups. Agriculture is second with 19 delegates.

The convention's occupational makeup also includes 17 businessmen and merchants, 14 educators, 4 clergymen, 4 members of the communications media, 3 professionals, 2 bankers, 8 from miscellaneous occupations and 11 housewives. (The total of all occupations adds to more than 100 because of half a dozen delegates who are listed in two categories.)

The predominance of lawyers, farmers and ranchers in the convention compares to the large number of miners and stockmen in the 1889 convention, when the existing constitution was written.

One significant factor in the makeup of this convention, as compared to recent legislative sessions, is the decline in the number of farmers and ranchers.

As recently as 1965, before the one-man, one-vote reapportionment decision was applied to the legislature, more than 40 per cent of Montana's legislators were in agriculture, compared to 19 per cent of the convention delegates.

Only 9 per cent of the 1965 legislators were lawyers, compared to 24 per cent for the convention. The increase is probably a reflection of reapportionment and of greater interest of lawyers in rewriting the state's fundamental law.

AT LEAST ONE lawyer will serve on each of the 10 substantive committees named at the convention organization meeting Nov. 29-Dec. 1. All but one of the committees will include a farmer or rancher and all but two will include a woman.

Here are some characteristics of convention delegates:

— The average age is 50. Lucile Speer, retired University of Montana librarian is the oldest at 73 and Mae Nan Robinson, UM graduate student, is the youngest at 24. Five delegates are under 30 and eight are 65 or older.

— Nineteen of the delegates are women, compared to two women legislators in the 1971 session and one in 1969.

— At least 80 of the delegates were graduated from or attended college. Many have post-graduate degrees.

— More delegates are members of the Roman Catholic Church than any other. The number of delegates affiliated with several of the churches include: Catholic 25, Presbyterian 13, Methodist 12, Lutheran 10, Episcopal 9, Congregational 8.

Although many of the delegates are new to politics, at least 42 have previously been elected to school, city and county offices and to the legislature.

EIGHT HAVE been elected to city offices. Former mayors include: Oscar Anderson, Erdmann, R.S. Hanson and Swanberg. Those who have been city council members include: Cain, Choate, Kamhoot and Payne.

Eight have been elected to county offices: Arness, Aronow, Ask, Brown, Davis, McDonough, Delaney and Melvin.

Twelve have served on school boards. Brazier, Conover, Delaney, Garlington, Habedank, Rod Hanson, Harlow, James, McCarvel, McDonough, Noble and Siderius.

At least 18 are former legislators. Aasheim, John H. Anderson Jr., Aronow, Barnard, Berg, Drum, Eskildsen, Etchart, Felt, Harlow, Leuthold, Mahoney, Murray, Nutting, Romney, Rygg, Schiltz and Toole.

Kelleher of Billings

Felt of Billings

LEGISLATURE

Overhaul, not tinkering, needed

All branches of government seem vulnerable to some tinkering during the constitutional convention, but one in particular—the legislature—may be due for a major overhaul

Perhaps no political institution in Montana has been the subject of more criticism in recent years, by political scientists, editorial writer, citizens groups and legislators themselves

In 1971, the Citizens Conference on State Legislatures, a national nonprofit, nonpartisan study group, ranked Montana's assembly a lowly 41st among the 50 states

The Montana legislature, like those of many states, is trying to solve 20th century problems with 19th century structures and methods, says John Burns in "The Sometime Governments," a book setting forth the views of the citizens group

He cites Montana as an example of a legislature whose presence is rarely felt or rarely missed "A visitor to the Montana statehouse in the spring of 1970 would have been hard pressed to uncover any evidence that it had ever housed a state legislature Almost a year had passed since the legislature had been in session, almost a year would pass (barring a special session) before it would be in session again "

LEGISLATORS HAVE tried, both through changing the law and modernizing internal procedures, to upgrade the work of the assembly

For instance, lawmakers rely increasingly on interim studies by the legislative council and they have established the office of the legislative auditor

But several of the more significant recommendations of the citizens group—annual sessions, sessions of unlimited length and single member districts, for example—would require constitutional changes.

Here are some of the pros and cons on those and other issues of the legislative article.

—STRUCTURE. The convention will decide whether to continue with a bicameral legislature or switch to a unimcameral system.

—SIZE. Under the existing apportionment plan, the legislature will have 100 representatives and 50 senators in 1973 The Montana Citizens Committee on the State Legislature, associated with the national group, has been trying for several years to reduce the legislature to about half that size to promote greater efficiency, reduce costs, reduce the workload and make longer sessions possible

Advocates of a larger legislature say it maintains more diverse views, insures rural areas of representatives closer to home and is harder to corrupt

—ANNUAL SESSIONS. Many contend that the work of the legislature in the modern era can't be accomplished in biennial sessions Opponents say annual session would be too costly and are unnecessary in a sparsely populated state like Montana

—SESSION LENGTH. Many analysts believe that the 60-day limit on sessions is unrealistic, citing the special sessions of past years Opponents say longer sessions would only be more costly and promote procrastination

—DISTRICTING. The citizens groups and others advocate single-member legislative districts, suggesting that a long ballot of candidates makes rational choices difficult Voters would be able to follow the record of one legislator better than a dozen or more, they say

Advocates of multi-member districts say the legislators represent a broader range of interests and the districts are not so vulnerable to gerrymandering Legislators who might be reapportioned out of a job also oppose the single-member concept

—COMPENSATION The citizen groups advocate annual salaries for legislators, rather than pay on a daily basis They contend that annual salaries would eliminate the need for restrictions on session length Opponents contend that annual salaries would be costly and would tend to create a "professional" legislature as opposed to a "citizen" body

Montana Legislature: unicameral or bicameral?

> "A visitor to the Montana statehouse in the spring of 1970 would have been hard pressed to uncover any evidence that it ever housed a state legislature. Almost a year had passed since the legislature had been in session, almost a year would pass (barring a special session) before it would be in session again. During the long interim, all office and committee rooms are occupied by legislative and executive staff agencies The chambers are used for civil service examinations, among other things The names on the door are changed, and the legislature disappears leaving scarcely a trace. It seems little more than a brief biennial inconvenience."
>
> —John Burns, The Sometime Governments

At least one legislative provision may be in for more than just an overhaul during the constitutional convention Some delegates want to junk the state's two-house lawmaking vehicle for a sleek and shiny, although little-tested, one-house model.

Historically, the two-house or bicameral system developed because each house represented different interests. In England, the House of Commons represented the people and the House of Lords the nobility

In the U.S Congress, the House represents the people and the Senate the states Until recently, the Montana legislature was patterned after the congressional model, with the House based on population and the Senate on geography

BUT TWO RECENT events have increased interest in unicameralism. The first was a 1964 decision by the U.S Supreme Court, which ruled that both houses of the legislature must be based on population

The second was the taxation deadlock between the Republican-controlled House and the Democratic majority in the Senate during the 1971 legislature The two special sessions and 46 extra days of haggling are still fresh memories. The 1971 session was the sixth among the past 10 in which control of the two houses has been split between the parties

A report by the Montana Constitutional Convention Commission, written by Richard F. Bechtel, reviews both sides of the unicameral vs. bicameral issue Here are some of the pros and cons:

—BICAMERALISTS contend that two houses act as a check on each other, guaranteeing a critical review of bills and preventing passage of hasty, ill-considered legislation Unicameralists argue that executive veto and judicial review are more proper checks than "self-defeating" internal review They cite studies showing that few bills receive meaningful review in the second house

—Bicameralists believe that two houses act as a check on popular passions, thus safeguarding civil liberties Unicameralists cite the 1917-1919 period in Montana when a bicameral legislature enacted stringent anti-sedition legislation which denied citizen rights

—Bicameralists contend that two houses prevent corruption and dilute the effect of lobbyists because there are more legislators to bribe or influence Unicameralists argue that when there are two houses, those who would bribe get two chances to do so, and lobbyists, who are usually trying to kill legislation, get two chances

—BICAMERALISTS contend that two deliberations on each piece of legislation produce better laws. Unicameralists believe that one house with broad interests will write better legislation than two houses with narrower interests.

Those who favor a unicameral legislature contend that it would be more accountable, more efficient and less costly

1. ACCOUNTABILITY. The public and the press would be able to follow legislation more easily in one house, unicameralists say Nebraska, which has the country's only unicameral legislature, rated first in accountability in a recent study by the Citizens Conference on State Legislatures Nebraska avoids one of the pitfalls of a bicameral assembly: decision-making out of public view In bicameral assemblies, legislation which is passed in different forms by both houses is ironed out in a closed conference committee

2. EFFICIENCY. Fewer bills would be introduced in a unicameral legislature and the end-of-session logjams would be avoided (Nebraska's legislative activity peaks in mid-session), unicameralists contend With fewer bills to consider, those introduced could be given more study

3. ECONOMY. A unicameral legislature probably would have fewer members, saving money which could be used for better research and legislative facilities Unicameralists suggest that would make the legislature less dependent on the executive branch and lobbyists

If a unicameral proposal results in a sharp reduction in the 150-member legislature, opposition can be expected from rural delegates who represent sparsely-populated areas already suffering from loss of legislators under "one-man, one-vote" rulings

On the other hand, unicameralists have one thing going for them the convention itself is a unicameral body

The convention has authority to put controversial questions to a separate vote of the people, to avoid endangering the entire new constitution because of one provision If a unicameral legislature has wide support among delegates, the issue is a likely candidate for a separate referendum

'Pressure cooker'

Directors of one of Montana's biggest "business" enterprises—state government—meet every other year in what one political scientist describes as a "60-day pressure cooker"

The biennial sessions of the legislature and the 60-day time limit on sessions are two constitutional restrictions often criticized by legislative reformers. The Citizens Conference on State Legislatures found in a national survey that time restrictions are the "most crippling and most critical" problems legislatures face: "Major legislation—because it is complex and controversial—is left until the very end, when it is dealt with in a mad rush."

NOT ALL AGREE, of course. Some familiar with the legislative process, including a significant number of legislators, believe that annual sessions would be too costly and longer or unlimited sessions would invite procrastination

All but one of the original 13 states began with annual sessions But, according to a report by the Monana Constitutional Convention Commission, confidence in legislatures eroded in the mid-19th century when railroads and other corporate interests began to dominate and corrupt the law-making bodies. Montana's Constitution was written in 1889, during that period of distrust.

Now, however, the opinion of many students of the legislative process has shifted in favor of annual sessions, the report says. As recently as 1948, only six state legislatures met every year By 1971, there were 33 assemblies meeting annually

THE GREATEST objections to annual sessions come from those who fear too much government and who think yearly sessions would be too costly, the report says.

Advocates of biennial sessions also contend that legislative proposals receive closer consideration if they cannot be repealed for two years, that biennial sessions are better for legislators who are busy citizens, that the time between sessions is better spent on interim studies and that fewer sessions guarantee greater public attention on the assembly when it does meet

Those favoring annual sessions contend that in an era of rapid change, it is necessary for the state's lawmakers to meet more than once every two years. They point out that the 1890 legislature appropriated only $187,000 for one year compared to the $296,000,000 the 1971 legislature appropriated for this year

Advocates of annual sessions also contend that frequent meetings are necessary to restore the balance of power between the legislature and the executive branch, that budgeting several years in advance is difficult and that infrequent meetings make the legislature dependent on lobbyists

Thirty states still limit the length of legislative sessions, and four others cut off legislators' pay after a certain number of days

Opponents of unlimited or longer sessions cite many of the same arguments used in opposition to annual sessions. They also contend that the public is better able to follow the action during a session of limited length and argue that longer sessions might discourage participation of some legislators, particularly farmers and ranchers, who now have the time to spend alternate winters in Helena

Who's the captain?

EXECUTIVE

Gov. Forrest Anderson — Lt. Gov. Judge

In theory, the governor is the captain of the Ship of State, but in practice he can't pull rank on a half dozen of the mates

Although drafters of the 1889 constitution vested the governor with the "supreme executive power," they provided for six other elected officials who are responsible, not to the governor, but to the voters. They are the lieutenant governor, attorney general, secretary of state, state treasurer, state auditor and superintendent of public instruction.

This "plural executive" has been criticized in numerous studies and articles over the years. Typical of the criticisms of the plural executive is one by Richard B. Roeder, associate professor of history of Montana State University and a delegate to the 1972 convention.

Writing in the winter issue of the Montana Law Review, Roeder said: "The fragmented, plural executive diffuses power but not responsibility. The testimony is almost universal that the people hold the governor responsible for the course of action."

On the other hand, some legislators expressed fears during the 1971 session that the governor is becoming too powerful because of the executive reorganization legislation enacted during the session.

THE QUESTION of whether to make the governor all powerful in the executive branch will be one of the major decisions to be made by this year's Constitutional Convention and, ultimately, by the voters.

Critics of the existing system argue for a "short ballot," with the governor and lieutenant governor running as a team, and the governor naming his own cabinet of state officials.

In addition to the elected officials, the 1889 convention gave constitutional status to 10 other state agencies, including seven boards and commissions. State legislators added additional semi-autonomous boards over the years.

REORGANIZATION of the executive branch consolidated 161 executive agencies into 19 major departments. But only statutory boards were affected: the constitutional boards remain.

Elimination of those boards and some elected offices would extend executive reorganization by making the governor even more powerful.

Roeder is one who is opposed to government by committee: "Administration by boards and commissions may have sufficed at a time when the functions of state government were simple and relatively inexpensive; when it was possible for the Board of Examiners to gather around a table and personally examine claims against the state. But state government was not destined to remain so simple."

According to a report by the Montana Constitutional Convention Commission, the most significant argument of those favoring the short ballot is that it would make the governor directly accountable to the people.

The short ballot also would reduce voter confusion at the polls and would make the governor the undisputed boss, thereby increasing administrative efficiency, proponents says.

According to the commission report, those favoring a long ballot of elected officials argue that the governor could become too powerful.

They also contend that responsibility in government is best achieved by popular election of state officials, that election increases the prestige and respect for the offices, that the lesser offices are training grounds for young politicians and that gubernatorial appointments might be influenced by "political" considerations.

The convention's decision on the power of the governor probably will be affected by a similar decision about the power of the legislature, because each branch acts as a check on the other.

"Let us nominate and elect the chief executive of the state, then give him full power to name his assistants in administering the various departments of the state government, and we will know exactly where to place our finger in locating blame or praise."

—Gov. Joseph M. Dixon, 1921

Stephenson, Treasurer — Colburg, Supt. of Schools — Murray, Sec. of State — Woodahl, Atty. Gen. — Judge, Lt. Gov.

Beefing up the governorship

The Constitutional Convention may consider electing future Montana governors in other than Presidential election years to prevent national issues from obscuring state politics.

The timing of the gubernatorial election is one of half a dozen lesser executive branch issues to be considered, along with the important decision of gubernatorial power.

Gubernatorial succession, veto power, length of term and qualifications are among the other issues, along with consideration of the powers and duties of the lieutenant governor.

SOME ANALYSTS believe that a popular Presidential candidate may sweep a governor of the same party into office, regardless of qualification. (A popular governor also might help the Presidential ticket.)

In 12 of 20 elections since statehood, Montana voters have given support to presidential and gubernatorial candidates of the same party.

But in the two most recent elections, voters have split their tickets going for a Democrat for President and Republican for governor in 1964 and a Republican for President and Democrat for governor in 1968.

But those favoring election of the governor in non-Presidential years also argue that the practice would focus public attention on state issues and thereby strengthen state government.

Opponents of the off-year gubernatorial election contend that voter turnout is much larger in Presidential election years, thus giving the governor a clearer mandate.

Some of the other executive issues are outlined in a report prepared by the Montana Constitutional Convention Commission, and written by research analyst Karen Beck:

—SUCCESSION. The constitution now provides that the lieutenant governor, president pro tempore of the Senate and speaker of the House, in that order, shall succeed the governor. But it does not set forth procedures for determining gubernatorial disability. Some also question whether legislators —chosen from one district rather than the whole state— should be in the line of succession.

—VETO POWER. Montana's governor has the power to veto state and federal constitutional amendments approved by the legislature. Some believe the amendment process is a "constituent" function shared by the legislature and the voters and one in which the governor has no place.

—TERM OF OFFICE. About one-fifth of the states limit governors to two-year terms. Montana is in the majority with a four-year term, which is in accord with the trend to strengthening gubernatorial power. Some want the governor to take office in December, after the November election, rather than January. They contend it would give the new executive more time to prepare for convening of the legislature in January.

—QUALIFICATION. Montana's governor must now be 30 years old and a two-year resident of the state. Some argue that any eligible voter should be able to run for office, meaning an 18-year-old could serve if he could get elected.

—LIEUTENANT GOVERNOR. Under the existing constitution, the lieutenant governor has only two duties: presiding over the Senate and, if necessary, succeeding the governor. He can be, and in the past has been, of a different party than the governor. Some think the lieutenant governor should become an "assistant governor," and that he should be elected with the governor as part of a team.

Justice, but what quality?

Critics of Montana's judicial system say increased demands of justice in this complex age are causing cracks in the 82-year-old court structure designed for a frontier society.

Judicial architects raise two key questions that they feel illustrate weaknesses in the administration of justice in the state:

—Does the present method of electing judges on a nonpartisan ticket provide qualified jurists independent of economic and political pressure?

—ARE CITIZENS assured of receiving the same quality of justice in all the courts of the state?

Delegates considering these problems will have the benefit of research done by the Citizens' Conference on the Montana Judicial System. Its five-year study has resulted in the Montana Plan for court reform.

The plan follows the modern thrust of judicial reform, which is for a unified court under centralized administration staffed by judges who are chosen and retained on merit.

Montana's three-tiered system consists of a court of appeals (the Supreme Court), general trial courts (the district courts) and inferior courts (justice of the peace and police courts).

Studies of this system conclude that it is fragmented and suffers from duplication of effort and artificial divisions of authority between the high court, the 18 district courts with 28 divisions and the more than 200 lower courts.

THE MONTANA PLAN proposes a two-tier system. There would be an appellate level (the Supreme Court) and a general trial level (the district courts).

JP and police courts would be eliminated and their functions incorporated in the district courts. The lower level courts would operate as divisions of the district court staffed by magistrates appointed by the district judges.

Criticism of the court structure has centered on the inferior courts. "The type and quality of justice presently being provided in these courts could be materially improved by adoption of a uniform court system which would provide a district court level of judicial quality for all legal proceedings," was the concensus reached by the citizens' committee.

The Montana Plan proposal is for creation of a nonpartisan nominating committee with a majority of laymen which would screen candidates and submit a list of prospective nominees for a judicial vacancy to the governor. The governor would have to make his appointment from the list.

The appointed judge would be required to run at intervals against his record in a nonpartisan uncontested election.

Critics of this plan argue it is undemocratic because it removes direct control of the judiciary from the people.

Supporters of the merit system contend Montana, in effect, already has an appointive system. Four of the five Supreme Court justices and 20 of the 28 district judges were initially appointed and only two incumbent judges have been defeated in an election.

THE PROPOSAL also creates a research and qualifications committee with power to investigate complaints against judges and bring charges before the Supreme Court. The appeal court would try the charges and could order censure, retirement or removal.

The plan would give wide authority to the Supreme Court which would be responsible for administration of all courts and would have the authority to make rules of practice and procedure. Some authorities feel procedural rules should be left to the legislature because substantive issues may be involved.

The citizens plan recommends appointment instead of election of the clerk of the Supreme Court and district court clerks.

The plan would leave tenure and salaries of judges to the legislature. Judges are strongly opposed to asking the legislature every two years for a salary increase and have asked for a pay commission to set salaries that would be ratified by the legislature.

Who needs justice of peace courts?

JUDICIARY

Justice of the peace courts are termed inferior courts because they are the lowest level of jurisdiction, but critics complain inferior too often describes the quality of justice dispensed there.

Justices of the peace (JPs), a relic of medieval England, came to Montana with territorial status in 1864 and were given contitutional recognition with statehood in 1889.

The lower courts have become targets of judicial reformers, but attempts to abolish their constitutional status and improve them through legislation have failed. The voters in 1962 narrowly rejected such a proposal by 1,000 votes. Now the Constitutional Convention offers another chance at reform.

THE REFORM being proposed in the Montana Plan of the Citizens' Conference on the Montana Judicial System is to establish one level of trial court jurisdiction in the state. JP courts would be eliminated and their functions taken over by district courts.

Matters now brought before JP courts would be handled by divisions of district courts. The district judges would assign magistrates to hear misdemeanors, small claims and minor disputes. The magistrates would be lawyers if possible, but trained laymen could be appointed if no lawyer were available.

Critics find a number of faults with the existing JP courts:

—JPs ARE NOT required to be lawyers. All but a handful have no legal training and are unable to understand the complexities of the law.

—Most of the justices, 85 per cent, are paid fees instead of a salary and that compromises their independence and subjects them to economic pressures.

—They are elected on partisan tickets which leaves them subject to political pressures.

—Less than 30 per cent of the justices are provided with adequate courtrooms. The majority hold court in unsuitable quarters lacking in judicial dignity and decorum.

However, the lower courts have many defenders who point out the necessity of an easily available, informal and inexpensive court to handle misdemeanors and small claims without the need to hire attorneys.

Such courts, they say, fill a real need in rural Montana where distances are long, populations scattered and judges and lawyers not always handy.

Those who support JP courts argue that if justices are given periodic legal training and paid an adequate salary instead of fees, the inferior courts could serve their function of a "common man's court."

THEY CONTEND that elevating the lower courts to the district court level would be too expensive, give too much power to district judges and create a district court bureaucracy.

The reformers answer that the present system of more than 200 JP and police courts is cumbersome, inefficient and expensive. They argue the $250,000-a-year cost of lower courts would pay the salaries of 15 additional district judges.

The critics say the JPs—and the defendants—are at a disadvantage because county attorneys are lawyers and law enforcement officers often know more about their special field of law than the JPs.

How Montana judges are selected

A popular comedy routine begins with "here come 'de judge," but one of the most serious questions facing delegates is how the judge got there.

The method by which judges are chosen is vital because the best court organization the convention can devise will fail with poor personnel.

The issue boils down to retaining the existing election of judges, substituting appointment of judges or combining both features in a merit selection plan.

MERIT SELECTION, better known as the Missouri plan or the appointive-elective system, is proposed in the Montana Plan developed by the Citizens Conference on the Montana Judicial System.

The Montana Plan would establish a nonpartisan judicial council composed equally of laymen, attorneys and judges. From this council a nominating committee would be appointed with a majority of laymen and minority of lawyers. Judges could not serve on the nominating committee.

This committee would select a number of qualified nominees for each judicial vacancy and submit the list to the governor, who would have to make the appointment from the list.

THE APPOINTEE would serve a term fixed by statute and then would be required to run against his record in an uncontested election. The question before the voters would be whether the judge's record merited keeping him in office.

Critics of this method argue that it is undemocratic because citizens should have the right to directly choose their judges. Strong feeling exists in Montana for election of judges, the system fixed in the constitution since 1889 statehood.

Partisan judicial elections were changed to nonpartisan in 1935 to eliminate political excesses but the pros and cons of elective vs appointive judges are substantially the same for nonpartisan as for partisan elections.

The choice between an elected and appointed judiciary is a difficult one, authorities agree, because a balance must be struck between the apparently inconsistent goals of an independent judiciary and popular control of the judiciary.

ELECTION IS the method in 32 states, 17 with partisan elections and 15, including Montana, with nonpartisan elections.

Fourteen states provide for appointment by the governor or legislature.

Another 14 states have adopted some form of merit selection. (The totals do not add to 50 because some states use more than one method.)

Those favoring election of judges contend politics can never be entirely eliminated and merit selection simply substitutes bar association politics, far removed from the people, for partisan politics.

Election, they say, prevents the judiciary from imposing political, social and economic policies contrary to the views of the majority. They argue it will assure judges will be chosen who represent ethnic, religious and racial groups in the society, and who can deal most effectively with the legal problems of ordinary persons.

Critics of judicial election say it substitutes popularity for quality. These opponents say voters are generally unaware of the candidates' qualifications and cannot vote intelligently.

Opponents of election say it compromises the independence of the judiciary in its role of the protector of the minorities' rights. Popular election is necessary for the policy making executive and legislative branches but the judiciary is unique because judges are sworn not to give preference to one policy over another, they say.

Money strait-jacket: can cords be cut?

TAXATION

The consututional convention offers an opportunity to cut the cords of the financial straitjacket in which the 1889 framers clothed the legislature.

Rigid constitutional taxation provisions prevent the state from responding to rapidly changing social and economic needs by denying needed flexibility, says a report by researcher Roger A Barber for the Constitution Convention Commission.

THAT FLEXIBILITY lies in the legislature, and the taxation and revenue article adopted by the convention will reveal much about its faith in representative government.

Drafters of the 1889 document had little faith in legislatures—with some good reason. The result was a tax and revenue article which students of constitutions find wordy, complex, confusing, ambiguous and littered with statutory law

Constitutional authorities hold that a state's right to tax is an inherent power Therefore, they say, any constitutional provision on taxation is either redundant or serves only as a limit on action by the state

An example would be a clause forbidding the legislature to enact a sales tax, thereby stripping the lawmakers of any discretion in that particular tax

The basic question before the delegates in tax matters is just what restrictions should be placed on the taxing authority of their elected representatives.

A constitution could remain silent on taxation and leave total discretion with the legislature, but it is doubtful Montana voters would accept a government completely unchecked in its powers of taxation

VARIOUS STUDIES concur that an adequate revenue and taxation article should give the legislature a general grant of authority to determine methods and rates of taxation, require equality and uniformity in assessments; provide taxes should be collected only for public purposes, paid into the state treasury and paid out only by appropriation under law, grant tax exemptions for government educational, religious and charitable purposes, and fix a reasonable debt limit that could not be exceeded without a vote of the people

One controversial provision that will receive detailed attention is the special tax treatment given mining property.

Delegates also must decide whether to continue an existing provision specifying that highway tax revenue can be used only to build and maintain highways and a provision reserving a portion of income tax revenue solely for education

Another section expected to provoke lively debate prohibits lotteries in the state.

Trickle of state aid

Montana's local governments hope to squeeze their way into the state tax collector's watering trough with a few wording changes in the constitution

Prohibited by the 1889 Constitution from sharing the wealth collected each year by state taxes, local government has had to rely mainly on the property tax—and often has suffered the brunt of the so-called "taxpayers revolt," according to a Con-Con Commission report

Although the state has found a few loopholes—notably sharing "license" tax fees with local government—in general the state aid is barely a trickle.

THE COMMISSION report on local government says that in 1969 Montana's state aid to local government amounted to only $5 98 per person compared to a national average of $49 33 per person Only three states provided less than the Treasure State

'Another alternative—authorizing local governments to levy major taxes other than property taxes—simply has not been used in Montana," the report notes

Giving local government a share of state taxes (or a chance to at least compete with other agencies for them) would take only a few constitutional words, but delegates are likely to consider the over-all question of local government's taxing powers, too

At one extreme, delegates could impose severe constitutional limitations on local government's power to tax

A MORE MIDDLE approach—the one generally followed by the 1889 Constitution—lets the legislature decide what taxes local government can levy So far, however, the legislature has been reluctant to authorize anything but the property tax

A newer "home rule" approach would constitutionally grant local government the power to levy whatever kind or amount of taxes it wishes—except for those forms specifically denied by the legislature

Another financial limitation imposed on local government by the constitution is the general debt limit of five per cent of assessed valuation

Most local government reformers believe debt limits should not be frozen into the constitution, but many states continue to do so, the report notes

Many local governments are able to exceed their bonded debt limit by use of revenue bonds—which the courts have ruled don't count against the limit

Besides the debt limit, counties must get voter approval before incurring a debt of $10,000 or more—an amount most studies agree is unrealistic in days of inflation

That highway fund

Engineers of a new constitution must weigh strong public pressures in considering whether good roads should continue to be set in the concrete of constitutional principle

One of the better known provisions of the state's horse and buggy age constitution is the anti-diversion amendment, added by the voters in 1956 by a better than 3-1 majority It specifices that revenue from highway fuel taxes and vehicle fees can only be used to build, repair, maintain and promote highways

THIS INCOME has amounted to $37 million a year recently and with federal matching money the fund is around $110 million annually

The inviolate fund is a major part of a larger question facing the delegates, that of earmarking — dedicating a particular tax to finance a special function Montana earmarks 53 per cent of its revenue with highways and education the major beneficiaries

Recent tax and finance studies tend to discredit earmarking, especially if frozen in a constitution, as an inefficient and inflexible method of allocating the state's resources

SUPPORTERS DEFEND earmarking as assuring a definite level of spending for a desired service and providing stability and continuity in financing that service The Legislature Council's 1968 study of the constitution recommended repeal of the highway amendment, but a subcommittee of the 1970 Constitution Revision Commission urged that it be retained because it is so popular

The constitutionally insulated highway fund is zealously guarded by a powerful lobby of vested economic interests including vehicle manufacturers and dealers, oil companies, construction firms and their suppliers and motorists' associations

A case can be made that an extensive network of good roads is in the public interest as vital to a state of vast distances and sparse population like Montana

Oponents of the amendment argue that if a well funded highway system is in the public interest, this can be accomplished by legislative enactment without any need for a constitutional mandate

Mining: a 'tax special'

Development of mineral wealth brought settlers to the Montana Territory in numbers enough to create a state, and the mining-dominated delegates who wrote its Constitution didn't forget the favor

They wrote an uncommon section which was, in effect, a form of property tax exemption under which mining claims and mines are valued differently from other property

"Mines are the only form of property in the state with a constitutionally prescribed taxation system," explains a Constitution Convention Commission report

THAT REPORT SAYS the central question before the convention is whether one method for taxing mining property should be frozen in the Constitution, or whether the legislature should be free to develop whatever method of mineral taxation it wishes.

The weight of modern constitutional thought is that a special tax situation has no place in a document of fundamental principles, not because it benefits a special interest, is a tax break or is even undesireable, but because its nature is statutory

Studies by the Legislative Council and a subcommittee of the 1970 Montana Convention Commission recommend its deletion

THE "TAX BREAK" given mines in 1889 by the 75 delegates—about half of whom were associated with the mining industry—was to limit valuation of the land to the minimal price originally paid the United States for the claim, regardless of how valuable it might become.

The constitution further directed the legislature to tax mineral wealth on its net proceeds, the value after deduction of all the costs of recovery including labor, supplies, capital improvements and depreciation

The opponents in 1889, mostly agrarian interests, conceded the inherent difficulty in

MINING

accurately assessing the value of a mineral deposit in the ground, its extent unknown

But they argued the mineral wealth either should be taxed on its gross earnings or the determination left to the legislature.

Stories of power politics and conspiracies surround the provision The latest historical studies discount a conspiracy although the special privilege is evident.

(The present-day Anaconda Co was not involved in 1889 Its birth lay a decade in the future when the Standard Oil Trust in 1898-99 purchased Marcus Daly's Butte interests and formed the Amalgamated Copper Co.)

JOHN W. SMURR in his article, "The Montana Tax 'Conspiracy' of 1889," in "Montana, The Magazine of Western History," concludes there was no conspiracy because no conspiracy was necessary

Smurr says preferential tax treatment was only logical for the industry that was the economic backbone of the territory and would continue as a significant economic prop of the new state.

Mines had been accorded special tax treatment from the first days of mining in the territory The Bannack statutes of 1864-65 exempted claims from property taxation but not machinery The 1889 provision was lifted from the 1884 Constitution written by the same mining interests

"While adopted primarily to benefit the mining industry, its purpose was not to exempt such property from taxation," writes Harold V Dye, University of Montana law student, in the Montana Law Review "It is apparent that it is in fact a revenue measure

"But perhaps the most damning feature is that it is in the Constitution at all," Dye says "Even if it were perfect that would be no reason to immortalize it in the stone of constitutional mandate "

THE CONTROVERSY continued when it was discovered the mining industry was not paying a fair tax share under its constitutional mantle It led to the approval in 1924 of an initiative establishing the metal mines license tax—a tax on gross proceeds

That an initiative was required to change the method of mine taxation points up again the central question of whether a special tax treatment belongs in a constitution

Church-state entanglement

PAROCHAID

Advocates of aid to parochial education and those who oppose it in any form will joust in the Constitutional Convention arena.

The battle has been waged in many states recently, but usually in the courts and legislatures Montana's convention has the opportunity, within limits of the federal Constitution, to chart the future course in this state

If the debate results in controversy, as it often does, the convention may choose to submit the question to the voters as a separate item when they vote on the new constitution

At least 27 states now provide aid—such as busing, textbooks, hot lunches and health care—to children attending parochial schools, according to a report by the Montana Constitutional Convention Commission

MONTANA IS ONE of the exceptions and at least part of the reason is the rather strict language of the state's 82-year-old constitution, which forbids public aid "directly or indirectly" to church schools

The Montana Catholic Conference plans to ask the convention for a change based on the broader provisions of the U.S. Constitution "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof "

The federal Constitution prohibits "unsound entanglement" of Church and State, but the Montana constitution is ever more strict and denies possible federal benefits to children of the state, the Catholic Conference says.

IN UPHOLDING limited parochial aid, such as busing of students and loaning of textbooks, the U S Supreme Court has based its decisions on the theory that the aid benefits the child, not his school or his religion

But in its most important recent decision on parochial aid, the court ruled out programs in Pennsylvania and Rhode Island as involving "excessive entanglement" of church and state Two major attempts have been made in Montana in recent years to gain parochial aid

The Montana Association of Non-public Schools, which included Catholics and Lutherans, asked the 1969 legislature to appropriate $3 million for parochial aid The legislature rejected the request, and shortly after that the Catholic high school in Helena and Catholic elementary schools in Butte announced plans to close (Convention delegate Jerome T Loendorf of Helena was lobbyist for the group seeking the parochial aid)

—DEER LODGE COUNTY approved a levy in 1969 providing public funds for salaries for lay teachers at a Catholic high school in Anaconda The State Supreme Court ruled the levy contrary to the Montana Constitution The approach probably is also contrary to the U S Constitution, under the recent U S Supreme Court ruling, the commission report says

The decision for convention delegates appears to be a choice between (1) retaining a restrictive provision ruling out all parochial aid, (2) adopting a broad provision which would permit limited, indirect aid.

Most of the parochial students in the state attend Catholic schools More than 8,700 students, almost 5 per cent of the state's enrollment, attend the 11 high schools and 31 elementary schools run by the Catholic Church

At least 25 of the 100 convention delegates are Catholics.

The commission report says the following arguments are used by those favoring parochial aid:

1. Twenty-seven states already provide some aid for parochial schools, including busing, textbooks, lunches and health care.

2. Parents with children in parochial schools have to pay tuition to those schools and taxes to support the public schools, a double burden.

3. Costs of public education are decreased because of the students attending the parochial schools.

4. Parents should enjoy freedom of choice in educating their children, but the cost of a parochial education could become too much of a burden to exercise that freedom.

Arguments often used against parochial aid:

1. Any aid, even indirect, violates church-state separation.

2. Aid can "polarize" the nation and threaten the quality of public schools.

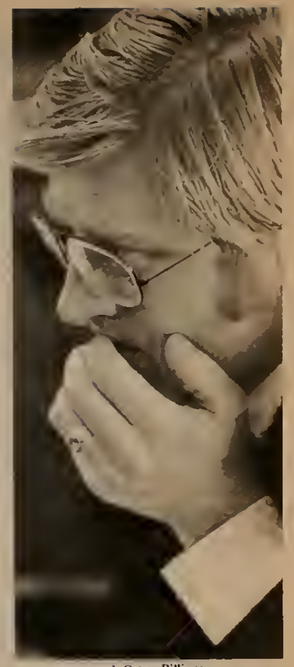
3. State aid will lead to state control over parochial schools.

4. The public school system is the backbone of education and should be the primary concern of the state.

C. Mahoney—Clancy

D. Bugbee—Missoula

M. Aasheim—Antelope



J. Cate—Billings

B. Rrown—Miles City

Thousands of words build governments

If a constitution were nothing more than a few thousand words scrawled on a parchment, Montana's Constitutional Convention would be a waste of time and money.

But those words build governments. Those words are the fundamental law of the land and reflect the desires of the people. And that makes them pretty important words

Constitutions tell us what type of government we'll have, how it will be conducted and how it will affect us. Through guarantees of our rights, constitutions protect us from government

Since 1889, when Montana wrote its third constitution and became a state, those words have served as our basic framework. But in recent years, a growing number of critics have contended that the framework wasn't holding up as it should. Too often, they said, Montana's 82-year-old constitution prevented state and local government from providing the services people want.

THE PEOPLE finally decided it was time to see if new words could bring better government. By a direct vote in 1970, the people called for a constitutional convention.

Constitutional conventions are strange creatures. In many respects they are the most powerful institution in a state because they are working witb the highest law; the convention is limited by only a few minor provisions imposed by the U.S. Constitution and the federal law which enabled Montana to become a state

Yet few governmental institutions are as accountable to the people. The opening phrase of Montana's Constitution—"We, the people"—is more than window dressing.

It took a direct vote of the people to call the convention, and it will take a direct vote of the people to approve any work the 1971-72 Constitutional Convention does—from a minor word change to a major word change which restructures government.

"THE CLAUSE, 'We, the people,' best represents the task of the convention," says Dale A. Harris, executive director of the Constitutional Convention Commission staff. "It is to act as agent of the people to write the fundamental law of the state."

While the ideal state constitution may be unattainable, constitutional scholars emphasize that the best constitutions are brief, simple statements of the fundamental, enduring principles of government.

The details of how those principles should work, however, should be left to the tawmakers to put in the statutory code books. Statutory law, they say, has no place in a constitution.

THE RATIONALE is that statutory law which can be changed easily without time-consuming amendment processes and ratification votes, should provide for detail and transitory provisions (like salaries) likely to be changed from time to time. Broad fundamentals not likely to change regularly should in theory go in the constitution, which is difficult to change.

"The most obvious, and in many ways crucial, fault of state constitutions is that they are too detailed," says constitutional law expert David Fellman of the University of Wisconsin. "They simply say far too much on too many subjects."

Montana's constitution with an estimated 22,000 words falls far short of Louisiana's 253,000-word tome. The Montana Constitution ranks 20th in length but is still more than three times as long as the federal constitution.

However, brevity has its limitations, too, especially in the area of constitutional rights, where an omission could cost the people an important protection. Delegates also could use brevity and fundamentalism as excuses for avoiding controversy

What is important, the scholars agree, is to choose words carefully, because in a constitution words build governments, not just for the day but the future.

C. Pemberton—Broadus

J. Leuthold—Molt

N. Furlong—Kalispell

G. Heliker—Missoula

J. Anderson—Alder

Who should govern education?

Constitutional Convention delegates deserve all A's if they find a way to help solve modern education's uncertain future

The convention is an opportunity to examine basic goals and to provide an educational structure compatible with the changes which are inevitable, the Constitutional Convention Commission report says.

Innovations "which may seem unrealistic at present will not be tomorrow," the report says. "With rapidly changing technology and attitudes, the possibilities for new styles and structures in education are becoming greater and greater.

The first question facing delegates is how detailed the educational article should be. Many constitutional scholars suggest it should merely impose a duty to provide education and leave mechanics and specifics to the legislature.

If delegates opt for more constitutional detail, they'll be slappped with several specific issues concerning the structure of education.

AN IMPORTANT question regardless of which route they follow is philosophical: Who should govern education and at what level?

Traditionally, the people have the ultimate power over education, but in recent years professional educators have become increasingly important as education has grown more centralized.

The issues revolves around centralization versus decentralization, universality versus local control.

In Montana, the state has formal authority over education, but through laws local districts have a great deal of control, especially over finances and district boundaries. But with increased federal activity in the education field, the trend is toward centralization.

Arguments for centralization, according to the report, are efficiency, better financial posture, equality of education and ability to cope with rapid change.

Arguments for decentralization include greater public control, local involvement, flexibility, financial independence and removal of education from politics and bureaucracy.

HIGHER EDUCATION poses another issue, and the outcome could affect how much control the legislature and governor will have over colleges and universities.

With a broad educational provision, colleges and universities might not be mentioned at all. But many persons contend that higher education has special status and independence which must be protected in the constitution.

Even with constitutional status, the university system could range anywhere from being a total creature of the legistature to being almost completely free from outside control. Delegates could strengthen higher education by providing it with a separate board of regents and giving it corporate powers.

MONTANA IS one of two states with a single board of education to set policy for both the elementary and secondaary schools and colleges and universities. The question arises whether the state should continue with one board or have two. Or even three, because of the rapid growth of post-secondary vocational programs

Another question involves the state superintendent of public instruction, an elected official who heads the state's education department, sits on the Board of Education and yet is subordinate to that board. If the position is given constitutional status, delegates may want to redefine its role.

Another likely issue is the question of election versus appointment of the superintendent of public instruction and the board (s) of education. Presently, the board is appointed and the superintendent elected.

Proponents of election say it gives the people a greater voice in operating schools, while those favoring appointment argue it strengthens the executive branch and brings greater professionabsm. Neither election nor appointment would necessarily eliminate politics, according to educators

EDUCATION

Public lands and schools

The 19th Century land grants for schools could give Constitutional Convention delegates 20th Century headaches when they start to unravel the tangled "Montana Trust and Legacy Fund."

The end result could be a whittled down constitutional provision for school lands and elimination entirely of constitutional articles dealing with public lands and the Trust and Legacy Fund.

In 1889, when Montana became a state, the federal government granted the state two sections of land in each 36-section township with the requirement they be used to support the public schools.

FOLLOWING DICTATES of the federal enabling act, the Montana Constitution provided for administration of all public lands, including the school lands, and set up a permanent school fund with income from sale or lease of the school lands.

In 1924, a constitutional amendment combined three new, separate funds into a creature called the Trust and Legacy Fund. Later the school land fund was added, too. The idea apparently was to set up a uniform state investment program, according to a Constitutional Convention Commission research report by Roger Barber.

Today, almost 90 per cent of the $59 million in the Trust and Legacy Fund is from the Public School Fund. Public schools get 95 per cent of the yearly interest and income from the school lands; the remaining five per cent is returned to the fund or used for land development.

IRONICALLY, the other three funds set up under the legacy fund—accounts for the state, schools (different from the school land fund) and the university system—were never used because outrageously unrealistic provisions prohibited use of any interest until the funds reached levels of $100 million or in one case $500 million. And the intent of the amendment—uniform investment—didn't come until passage of a 1971 law, according to the report.

Studies by the Montana Legislative Council and Montana Constitutional Revision Commission concluded that many of the provisions for public lands and the Trust and Legacy Fund are statutory and would be better off in the lawbooks.

You'll know your representative better

In recent survey in the Billings area, only two of 136 persons correctly identified all of their legislators from a list of names

Yellowstone County elects 12 representatives and six senators, so the results of the survey are not surprising. But they do furnish ammunition to proponents of single-member districts.

Under the single-member concept, Yellowstone County, and all others, would be divided into smaller districts, so that each voter would cast a ballot for only one representative and one senator (or, if the legislature is unicameral, for one legislator).

THE CITIZENS Conference on State Legislatures, a national study group, is one of the major supporters of the single-member concept. Such districting facilitates "clear identification between legislators and their constituents, a direct tie between each legislator and each individual district," the conference contends.

The 1971 legislature spent considerable time debating the size of the assembly, but quickly brushed aside consideration of a single-member plan. The new reapportionment plan provides for election of 40 of 50 senators and all 100 representatives from multi-member districts.

But proponents of single-member districts, including the Montana Citizens Committee on the State Legislature, will be trying to convince the Constitutional Convention of the merits of requiring the concept by constitutional mandate

Critics of single-member districts contend that they give undue advantage to narrower interests, that such districting is more vulnerable to gerrymandering and that the larger number of districts makes any apportionment plan difficult to draw within court guidelines and geographical realities.

They also see multi-member districting as an advantage in urban areas where it is likely to promote a team approach among legislators on matters affecting their entire community.

THE CONSTITUTIONAL Convention also will be faced with another important decision about districting: The question of who should reapportion the legislature each decade Past attempts by legislators to do their own reapportioning have ended in deadlock and failure. Legislators in areas of declining population are not likely to support plans which take representation from their districts, nor are they likely to favor a plan which jeopardizes their own elections

Most states which have recently drafted constitutions have established a reapportionment commission, either to do the remapping or to act as a backup agency in the event of legislative deadlock

Lobbying in the open

The Constitutional Convention will open the books of the paid lobbyists while opening its doors to the people

Paid lobbyists—persons hired to promote the views of another—must register with the secretary of state and abide by the same restrictions on conduct as are imposed during a legislative session

In addition, licensed lobbyists will be required by the Convention Enabling Act to file financial statements with the secretary of state every two weeks during the Convention's work session

With the exception of "reasonable" personal and office expenditures, the lobbyist must list all expenditures for promoting or opposing constitutional provisions The statements must be filed even if no money is spent

'Home rule' becomes rallying cry

Your local tax bill, local services and even the potholes in Main Street could be at stake when the Constitutional Convention tackles that nebulous slogan, "home rule."

Home rule has become the rallying cry for those who think stronger local government could do a better job.

For years, reformers have complained that because of constitutional limitations, cities and counties are weak sisters who are often unable to cope with the growing stresses of the 20th Century.

Montana's 1889 Constitution recognizes no inherent right of local government. Cities and towns which are scarcely mentioned, can make some local regulations and provide some services. But basically, municipalities are prohibited from doing anything unless the legislature authorizes it.

Counties fare even more poorly. Considered an administrative arm of the state, they lack even the basic power to pass local ordinances.

The state supremacy theory, often called the "Dillon Rule" after a 19th Century Iowa judge who formally stated it, generally has prevailed in Montana, although a more recent theory that local government has some inherent rights has been cited in some court decisions, the constitution convention commission report, prepared by Jerry R. Holloron, notes. Proponents of giving local government more power argue philosophically that local self-government is a basic American concept and that "the best government is that which is closest to home," according to the report.

FROM A PRACTICAL standpoint, home rule advocates say increased local autonomy would bypass meddlesome or unresponsive legislatures and free legislatures from the burden of running local government.

Most important, they argue that giving local officials greater power would pinpoint responsibility and eliminate alibis for nonperformance.

Opponents to "home rule" argue that greater power doesn't necessarily bring better government. Their most compelling argument is that local home rule might create local empires which would interfere with, rather than aid, solution to local problems, the report says.

Granting local government "home rule" can come in several different ways.

Traditionally, states have allocated local powers through the constitution, mainly because of distrust of the legislature. But critics of the "allocated powers" concept complain that it spawns restrictive court decisions, limits flexibility by "categorizing" functions and often ends up restricting local government.

A NEWER CONCEPT of "shared powers" or "residual powers" grants local government all powers not specifically denied by the constitution or the legislature—exactly the opposite of the present situation. The Montana League of Cities and Towns favors this approach, and many reformers say it is the most flexible.

But critics argue that nothing would be gained because a jealous legislature could by law strip local government of all power. Other methods of granting "home rule" power include combining allocated and residual powers, leaving it to the legislature or instructing the courts. The convention also could negatively limit the legislature's power, the report notes.

The "home rule" issue also means consideration of structure and charter-writing powers.

"Local charter-writing power (the power to set the structure of government) is the backbone of the 'home rule' movement," the commission report said. At present, only the legislature can write a charter.

THE COMMISSION report notes that county government structure has undergone some revolutionary constitutional changes because of amendments. "But the revolution has been one of words, not deeds," it adds.

Only tiny (population 675) Petroleum County has taken advantage of the "revolution" by consolidating offices and adopting a county manager form of government.

The other 55 counties are governed by three-member board of commissioners and in most cases a host of other independent elected officials. Lack of county executive responsibility has caused the Advisory Council on Intergovernmental Relations to brand counties "a combination Ichabod Crane and Don Quixote, headless and riding in all directions."

Governor as 'ornament'

The status of the office of governor in the eyes of the delegates to the 1889 convention is perhaps best revealed in a passage from the debates of that convention.

Delegate Timothy E. Collins of Great Falls attempted to amend the salary of the governor downwards to $2,500 from the proposed $4,000 salary. Resisting the motion was Martin Maginnis of Helena.

The exchange went like this:

COLLINS: "I think in the first place that the office of governor is more of an ornament than anything else. The duties are less than that of any other officer mentioned in this section (on the executive branch), and the compensation should be in accordance with the duties performed.

"The secretary of state, state auditor, state treasurer or superintendent of public instruction, either one of them, do a great deal more work—two or three times more work, and some of them ten times more work—than the legislative assembly will ever impose on the governor. The governor need not remain at the Capitol but during periods when official duties are to be performed. The routine duties of his office can be performed by his private secretary, and I believe that the governor of the new state of Montana for the present should receive but a nominal salary.

'Gentlemen may say that this is not in accordance with the honor of the office, but I say that the amount of compensation should be in accordance with the duties performed. The man who will hereafter be elected by the people of this great state as governor will be a man who can afford to fill the position for that sum of money ($2,500) and who will lose nothing by it.

"IT IS ALMOST a sinecure anyhow, and you can wipe it out of existence and not do the state any harm. It is like a great many other things that come down to us from the musty past. We have got it and we will hold on to it but we should only pay for the services that are done."

MAGINNIS: "I think the gist of the gentleman's argument was, in the remark he made, that those who are elected to the office of governor of the state of Montana can as well afford to perform the duties for the sum he mentions as for any other sum.

"That simply means that nobody but a rich man shall be elected governor of the state of Montana, and I do not believe that this convention or the people of this territory want to put a clause in our constitution or want to fix the compensation of this office at such a sum as that it shall make the office necessarily go to some rich man—go to some man to whom, as the gentleman says, it shall not matter to him whether the salary is $2,500 or any other sum.

'The office of the governor of the state is the office of the greatest dignity. The governor represents the state. He ought to be able to entertain and show courtesies to those who come to visit our state and our state Capitol."

The convention eventually resolved the debate by agreeing to an even higher salary—of $5,000. But Collins' characterization of the governor's office as more an "ornament" than anything else went unchallenged.

Other local issues

If delegates tire of debating "home rule" and local government finance, several other issues invite consideration, according to a Constitutional Convention Commission research report:

— NUMBER OF CITIES and counties. Local government reformers suggest that some of Montana's 56 counties should be consolidated and that if county government is strengthened, many of Montana's 126 municipalities would not be needed.

Delegates must decide whether to "freeze" the number of counties in the constitution, buck tradition by forcing consolidation or take the middle approach of leaving such issues as consolidation and municipal disincorporation to the legislature.

SPECIAL DISTRICTS. Probably the fastest growing form of government in Montana, special districts are not even mentioned in the constitution. Critics say they weaken local government but admit special districts do get things done.

—APPORTIONMENT. The "one man, one vote" rule has been extended to local government, and delegates may want to provide constitutionally for local reapportionment, direct the legislature or local units to do it or ignore the issue entirely.

—INTERGOVERNMENTAL cooperation. Some states, hailing cooperation as a means of solving problems which narrowly defined governmental units can't cope with, have blessed cooperation in constitutions.

—DECENTRALIZATION. More a concept for large urban areas, delegates may want to consider it as a concept which could benefit Montana several decades from now and structure a constitution which would not prohibit decentralization in the future.

Amendments: a very slow process

Although it's generally considered antiquated and woefully inadequate, Montana's Constitution has been amended only 37 times in 82 years.

And only a handful of those amendments, such as the 1934 provision for a progressive income tax, have brought about significant change in the state's fundamental law.

It's not that there hasn't been interest in constitutional revision. The legislative sessions of 1965, 1967 and 1969 considered an average of 30 proposed amendments each, more than double the average number considered in the decade before reapportionment.

But constitutional limitations on revision prevented any sweeping changes.

THOSE LIMITATIONS, in fact, were factors in the calling of a full-scale convention to take the first comprehensive look at the state's fundamental law since 1889. Therefore one of the decisions delegates to the convention must make will be on the ease or difficulty of future revision of the document they will submit to the voters.

It is generally agreed that constitutional law, because it is designed to be of an enduring nature, should not be as easy to change as statutory law.

But analysts also say that too many restrictions prevent the document from keeping pace with changing times. Delegates must find the middle ground.

Under the existing Constitution, only three amendments can be placed on the ballot at one time and each must be limited to one subject.

In addition, Montana is one of the few states in which the governor has the power to veto a proposed amendment. The latter provision is particularly unusual in that it takes a two-thirds vote of each house of the legislature to refer an amendment to the voters, the same margin needed to override an executive veto.

Delegates not only will decide whether to remove those restrictions, but whether to expand the methods constitutional revision. The existing document can be changed only by voter approval of proposals referred by the legislature or by a convention, either of limited scope in which a few specific articles are revised or of unlimited scope as is now the case.

Fourteen states permit constitutional change by popular initiative, in which citizens place an amendment on the ballot by collecting a certain number of signatures. The initiative method is designed to get around unresponsive legislators.

Other states provide for constitutional commissions to initiate revision, usually through recommendations to the legislature. The work of a commission would be similar to that done by the two legislatively created study commissions which laid the groundwork for the Montana convention.

The convention also may wish to follow the example of 11 states which have a provision mandating periodic referral to the voters of the question calling a new convention.

Voting rights guided by feds

Few restrictions are placed on the constitutional convention, but in writing principles guarding the basic democratic right to vote, delegates will be guided by federal law.

"The national constitution, especially certain amendments, and federal laws sharply curtail the states' ability to establish suffrage and election rules," says researcher James Grady in a report to the Montana Constitution Convention Commission.

Montana's constitution contains several restrictions on the right to vote that have been invalidated in whole or part by amendments to the U.S. Constitution, U.S. Supreme Court decisions and federal voting rights acts.

—AGE: Montana voters approved a constitutional amendment in 1970 that lowered the voting age to 19 but this has been superceded by the 26th amendment to the U.S. Constitution that fixed the voting age at 18.

—RESIDENCY: The state constitution specifies one year residency in Montana to vote in national and state elections while statutes set 30 days residency for county elections and six months for municipal elections. The Federal Voting Rights Act of 1970 has set 30 days residency to vote for president and vice president, thereby invalidating the Montana requirement in national elections.

—PROPERTY: The state constitution restricts voting to property taxpayers in elections that create a levy, debt or liability. The U.S. Supreme Court has ruled property qualifications for voting are unconstitutional because they deny equal protection of the laws.

Montana was one of the states that ratified the 26th amendment. The 1971 Legislature also approved a constitutional amendment to be placed on the ballot this November that would bring the state constitution into conformity on the 18-year-old vote, fix the residency requirement for all elections at 30 days and eliminate the property taxpayer qualification for bond and tax levy elections.

(These provisions probably will be included in a new constitution. If the proposed constitution is submitted to the voters in June or November and ratified, it would make the proposed amendment superfluous.)

IF THE 30-DAY residency requirement is adopted, it will be the shortest residency requirement of any state.

The present constitution says little about elections and constitutional authorities agree it should remain that way. They contend the mechanics of registration and conduct of elections should be left for the legislature to devise.

The convention also must decide whether to leave in the constitution the common voting disqualifications for conviction of a serious crime or mental incompetence or leave disqualification to statutory law.

The constitution provides for initiative and referendum. Authorities urge these methods of popular control of lawmaking be retained. The initiative in Montana now applies only to statutory law and it is recommended that initiative be extended to constitutional amendment.

DELEGATES

Pictured here are the delegates to the Montana Constitutional Convention. The names under each set of pictures identifies the delegates from left to right. Identification is by name, party, home, occupation and age.

AASHEIM, MAGNUS, D-Antelope, farmer-rancher, 62
ANDERSON, JOHN H. JR., R-Alder, rancher, 55
ANDERSON, OSCAR L., I-Sidney, banker and farmer, 61
ARBANAS, HAROLD, D-Great Falls, Catholic priest and educator, 47

ARNESS, FRANKLIN, D-Libby, lawyer, 38
ARONOW, CEDOR B., D-Shelby, lawyer, 61
ARTZ, WILLIAM H., D-Great Falls, certified public accountant, 53
ASK, THOMAS M., R-Roundup, lawyer, 46
BABCOCK, BETTY, R-Helena, motel officer and housewife, 49
BARNARD, LLOYD, D-Saco, farmer-rancher, 67

BATES, GRACE, D-Manhattan, housewife, 54
BELCHER, DON E., D-Roundup, insurance agent, 52
BERG, BEN E. JR., R-Bozeman, lawyer, 55
BERTHELSON, E. M., R-Conrad, banker and rancher, 61
BLAYLOCK, CHET, D-Laurel, teacher, 47
BLEND, VIRGINIA H., D-Great Falls, reprographer, 57

BOWMAN, JEAN M., R-Billings, housewife, 33
BRAZIER, GEOFFREY L., D-Helena, lawyer, 42
BROWN, BRUCE M., I-Miles City, lawyer, 49
BUGBEE, DAPHNE, D-Missoula, architect, 50
BURKHARDT, WILLIAM A., R-Helena, Congregational minister, 41
CAIN, MARJORIE, D-Libby, teacher, 56

CAMPBELL, BOB, D-Missoula, lawyer, 31.
CATE, JEROME, J., D-Billings, lawyer, 32
CHAMPOUX, RICHARD J., (RICK), D-Kalispell, college professor, 41
CHOATE, LYMAN W., R-Miles City, commercial flying, 59
CONOVER, MAX, D-Broadview, farmer-rancher, 59
CROSS, C. LOUISE, D-Glendive, housewife, 52

DAHOOD, WADE J., R-Anaconda, lawyer, 44.

DAVIS, CARL M., D-Dillon, lawyer, 49.

DELANEY, DOUGLAS, D-Grass Range, rancher, 45.

DRISCOLL, MAURICE, D-Butte, educator, 57.

DRUM, DAVE, R-Billings, businessman, 48.

ECK, DOROTHY, D-Bozeman, housewife, 47.

ERDMANN, MARIAN S., R-Great Falls, housewife, 60.

ESKILDSEN, LESLIE "JOE," D-Malta, farmer, 49.

ETCHART, MARK, R-Glasgow, farmer-rancher, 48.

FELT, JAMES R., R-Billings, lawyer, 51.

FOSTER, DONALD R., I-Lewistown, honey bee management, 34.

FURLONG, NOEL D., D-Kalispell, teacher, 44.

GARLINGTON, J. C., R-Missoula, lawyer, 63.

GRAYBILL, LEO JR., D-Great Falls, lawyer, 47.

GYSLER, E. S. "ERV," R-Fort Benton, manufacturer, 48.

HABEDANK, OTTO T., R-Sidney, lawyer, 54.

HANSON, R. S. (BOB), I-Ronan, retired auto dealer, 59.

HANSON, ROD, D-Fairfield, electric coop manager, 51.

HARBAUGH, GENE, D-Poplar, Presbyterian minister, 35.

HARLOW, PAUL K., D-Thompson Falls, farmer, 67.

HARPER, GEORGE, I-Helena, Methodist minister, 48.

HARRINGTON, DAN W., D-Butte, teacher, 33.

HELIKER, GEORGE B., D-Missoula, college professor, 52.

HOLLAND, DAVID L., D-Butte, lawyer, 47.

JACOBSEN, ARNOLD W., R-Whitefish, retired owner of resort and clothing stores, 58

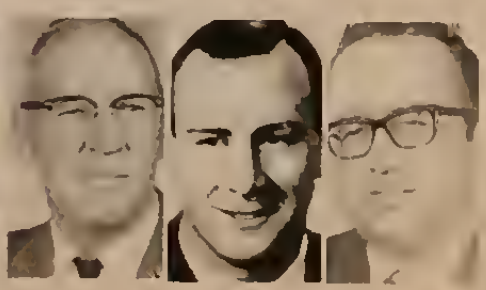
JAMES, GEORGE H., D-Libby, retired postmaster, 58.

JOHNSON, TORREY B., R-Busby, rancher, 55

JOYCE, THOMAS F., D-Butte, lawyer, 48.

KAMHOOT, A. W., R-Forsyth, semi-retired businessman, 59.

KELLEHER, ROBERT LEE, D-Billings, lawyer, 48.



LEUTHOLD, JOHN H., R-Molt, rancher, 64.

LOENDORF, JEROME T., R-Helena, lawyer, 32.

LORELLO, PETER, D-Anaconda, owner of bar-restaurant, 42.

MCCARVEL, JOSEPH H., D-Anaconda, locomotive engineer and bakery owner, 58.

MCDONOUGH, RUSSELL C., D-Glendive, lawyer, 47

MCKEON, MIKE, D-Anaconda, lawyer, 25.

MCNEIL, CHARLES B., R-Polson, lawyer and metallurgical engineer, 34.

MAHONEY, CHARLES H., I-Clancy, retired rancher, 65.

MANSFIELD, RACHELL K., D-Geyser, teacher, 55

MARTIN, FRED J., R-Livingston, newspaper editor, 67.

MELVIN, J. MASON, D-Bozeman, retired FBI agent, 57.

MONROE, LYLE R., D-Great Falls, social service, 26.

MURRAY, MARSHALL, R-Kalispell, lawyer, 39.

NOBLE, ROBERT B., R-Great Falls, merchant, 64.

NUTTING, RICHARD A., R-Silesia, farmer-rancher, 50.

PAYNE, KATIE, R-Missoula, housewife, 49.

PEMBERTON, CATHERINE, R-Broadus, journalist and housewife, 62.

REBAL, DONALD, D-Great Falls, auto dealer, 50.

REICHERT, ARLYNE E., D-Great Falls, research assistant, 46

ROBINSON, MAE NAN, R-Missoula, graduate student, 24.

RODEDER, RICHARD B., D-Bozeman, college professor, 41.

ROLLINS, GEORGE W., D-Billings, college professor, 55.

ROMNEY, MILES, D-Hamilton, newspaper publisher, 71.

RYGG, STERLING, R-Kalispell, auto dealer, 57.

SCANLIN, DON, D-Billings, teacher, 57.

SCHILTZ, JOHN M., D-Billings, lawyer, 52.

SIDERIUS, HENRY L., D-Kalispell, farmer, 61.

SIMON, CLARK E., R-Billings, merchant, investor and rancher, 68

SKARI, CARMAN, D-Chester, farmer-rancher, 39.

SPARKS, M. LYNN, D-Butte, public relations, 29.

SPEER, LUCILE, D-Missoula, retired librarian, 73.

STUDER, R. J. SR., R-Billings, contractor, 68.

SULLIVAN, VERONICA, D-Butte, housewife, 60.

SWANBERG, WILLIAM H., D-Great Falls, lawyer, 55.

TOOLE, JOHN H., R-Missoula, businessman, 53.

VAN BUSKIRK, EDITH, D-Havre, housewife, 52

VERMILLION, ROBERT, D-Shelby, radio announcer, 32.

WAGNER, ROGER A., D-Nashua, farmer-rancher, 29.

WARD, JACK K., R-Hamilton, veterinarian, 39.

WARDEN, MARGARET S., D-Great Falls, housewife, 54

WILSON, ARCHIE D., R-Hysham, rancher, 62.

WOODMANSEY, ROBERT F., R-Great Falls, teacher, 35.

THE PROPOSED

1972 Constitution

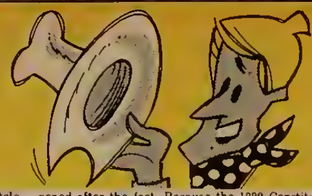
FOR THE

State of Montana

VOTE JUNE 6

Supplement to: The Billings Gazette, Bozeman Daily Chronicle, Montana Standard, Dillon Daily Tribune-Examiner, Great Falls Tribune, Daily Ravalli Republican, Havre Daily News, Helena Independent Record, Kalispell Inter Lake, Lewistown Daily News, Livingston Enterprise, Miles City Star, Missoula Missoulian

Introduction



A comparison of the 1889 and 1972 constitutions shows that they reflect the ages in which they were written. Like an old house bedecked with scroll work and bric-a-brac the 1889 Constitution is full of details. But they were intended to be more than ornaments. The details were designed to force us to be thrifty and honest. Clearly, detailed restrictions on such matters as taxation and debt limitations have not prevented an expansion of government, and we have examples in our history which demonstrate that constitutional commandments will not successfully force men into honesty if they are bent on being dishonest. While these same details have not always achieved their intended purposes, they have sometimes had the unintended effect of hamstringing effective state government. Montana's voters demonstrated their recognition of the outdated condition of our 1889 Constitution in November, 1970 when they gave such a wide margin of endorsement to the calling of a Constitutional Convention

Like a modern house, the 1972 Constitution is lacking many of the details of the old one. It is much shorter, fewer than 12,000 words as compared to 28,000. It is also more compact and more clearly organized, while in the old one subjects are sometimes scattered and difficult to find. For example, the governor's veto powers appears in four different parts of the 1889 Constitution, but the 1972 Constitution fully describes it in one section.

Of course there may be some citizens who will insist that the 1972 document proposes too many changes, that the Constitutional Convention has asked the citizens of Montana to place too much trust in the judgment of themselves and their legislators. On the other hand, there are those who think the convention did not go far enough in proposing changes. During the Constitutional Convention some newspapers were sharply critical of delegates for being too conservative and too unwilling to entertain changes. Others were critical of the Convention's putting statutory details into the document.

That the 1972 Constitution should be caught in a crossfire of charges of "too much" and "too little" is understandable because it is the product of compromise, the only way decisions could be reached on numerous questions. The decisions were made by a body which was truly representative of Montana's citizenry. A writer for the Los Angeles Times called the delegates an "unusual mix of people." Included among them were business men, farmers, lawyers, ranchers, school teachers, clergymen, housewives, and civic workers. They ranged in age from 24 to 73, with a clear majority of the delegates (60) in their 40's and 50's. Since the electorate chose the delegates from the same districts as will be used for election of the House of Representatives in November, 1972, they also represented all parts of the state.

The convention arrived at its decisions through an orderly and studied process. Although procedures of a legislature and the Convention are not exactly comparable, in legislative terms the final language survived the equivalent of five readings of a bill. Initially the work was done by ten substantive committees. President Graybill referred the articles of the 1889 Constitution and all citizen suggestions and delegate proposals to the appropriate committees for study. Most of the committees had the benefit of one or more research reports secured for it or written especially for it by the Constitution Convention Commission and its staff. Each committee also had a research analyst and one or more college interns to assist it with fact-gathering and the running down of sources of information.

At every stage of deliberation committee work was open to the public and the press. In addition to reading reports and comparing Montana's constitution with recently adopted ones in other states, committee members heard a stream of witnesses both in informal meetings in the committee rooms or at the highly publicized "Romney" hearings in Convention Hall. These hearings were named after Miles Romney, the delegate who proposed them. Citizens, representatives of corporations and organized groups, state employees, and elected public officials presented testimony on delegate proposals, parts of the 1889 Constitution, and on their own suggestions. The number of witnesses varied from the fifty-three who appeared before the Executive Committee to the 138 who testified before the Bill of Rights Committee. In somewhat unusual proceedings, the General Government Committee, Bill of Rights Committee, and Natural Resources Committee heard numerous witnesses by telephone during radio broadcasts of hearings.

After approximately a month of deliberation the committees reported to the full convention in the form of written reports. These reports had to be on the delegates' desks for forty-eight hours before they could be debated by the Convention as a whole. The reports included proposed constitutional language on the topics assigned the committees. In arriving at their language committees incorporated ideas and wording from various sources. In the process they either retained the language of the 1889 Constitution, rewrote it, discarded it, or wrote completely new language.

In any case, all proposals (most committee reports also included minority proposals) were accompanied by a section-by-section commentary to explain what the committee (or the minority) was trying to do with its proposal and why. The reports also included a complete record of how each member voted in committee on each question so that the Convention could know how the committee's membership lined up on every section of its report.

In no instance did the convention rubber stamp a committee report. The convention as a whole read and debated each committee report section by section. As it went through each section, the convention accepted, rejected, or adopted it as revised or re-written on the floor. As the convention completed debating and amending committee reports, they were sent on to the Committee on Style, Drafting and Transition. This committee went over the reports word for word to make the language clearer and shorter and consistent with other parts of the Constitution.

The Style Committee returned each report back to the full convention in such a form that each delegate could see what changes the committee had made in the wording. The convention as a whole again went through each report section by section for acceptance or revision of the Style Committee's alterations. Each report then went back again to the Style Committee for incorporation of any further changes made on the floor. When this was done, the Style Committee made a final report to the convention on each committee report. The convention read each report by section and passed each one by a roll call vote

After the convention had completed consideration of all reports, it again turned them over to the Style Committee which incorporated all the individually approved pieces into one complete and consistent document. The convention then accepted the completed document on a roll call vote.

Complicated as this process was, decision-making was not easy, as was indicated by the fact that the convention reconsidered its decisions on some issues. For example, the convention changed its mind several times on the question of the size of the legislature. Unwilling to leave this to future legislative determination, the convention had trouble making up its own mind. This is hardly surprising since Montanans recognize the importance of the issue, especially those in rural areas who fear that too great a reduction in size will leave them with very inadequate representation.

Differences of opinion over what was statutory and what was fundamental law was a factor in some reconsiderations. Novelty was also a cause of some indecision. Such was the case with the proposal that the state finance the election campaigns of judges as a means of avoiding the possibility of a judge having to decide a case involving someone who had contributed to his campaign. The convention rejected the idea, accepted it in a modified form, and then rejected it completely. Some delegates felt the proposal had potential merit; but because it was untried elsewhere, they rejected it on the grounds that they could not foresee how it would actually work.

Since the proposed constitution was derived from a process that mediated among a hundred different minds, the document is not what any one delegate would have produced. It is hardly surprising, therefore, that many delegates have reservations about parts of the document. But it is a tribute to the 1972 Constitution that not a single delegate refused to sign it on March 24.

The main thrust of the proposed Consitution is toward openness and flexibility. Under the present Constitution it is difficult for the average citizen to know what is happening in Helena. In a sixty day biennial legislative session so many bills are handled so quickly that they are disposed of before the average citizen has a chance to size up the situation. It is even difficult to evaluate what has happened after the fact. Because the 1889 Constitution requires a recorded vote only on the final reading of a bill, the historical record is very incomplete. Also, the record frequently fails to reveal how representatives stand on various issues since they can take one stand in the security of the committee room while taking a completely different position publicly by "voting for the record" on the third reading of a bill.

By contrast the 1972 Constitution is intended to open legislative behavior to scrutiny. In the first place, single member districts will make it much easier for the citizen to watch how his representative is performing. Annual legislative sessions will also give citizens as well as legislators more time to identify and study the issues. Since the legislature will be a "continuous" body for two years, bills will remain alive by being carried over from the first to the second session and cannot be so readily given a quiet burial in committee. Finally, the 1972 Constitution would eliminate "voting for the record" by requiring legislators to reveal their position by public votes at all the stages which move a bill along the legislative process.

In its quest for openness the Constitutional Convention has tried to throw light upon more than just the legislative process. Two new items in Article II, the Declaration of Rights, are intended to provide citizens with information on how the administrative machinery of government is running. These items, sections 8 and 9, are the right of the citizen to participate in the operation of government and the citizen's right to know how it is being run. It is the intent of these two items to open the day-to-day operation of government to public view. Whether they will achieve this end is not known because just how they will be applied in practice cannot be foreseen at this point. Some newspapers have expressed concern that the language in the right-to-know section might actually be used to cut off information by diminishing the effect of the present open meeting law. Whether the procedures citizens and public officials and employees evolve under these new rights follow the intent will largely depend upon the vigilance of press and public. No language, no matter how carefully drawn, can be a substitute for vigilance.

The 1972 Constitution also offers flexibility. It achieves this by leaving many matters to future legislative determination. Some may regard the prospect of reliance on the legislature with fear. The fact of the matter is that ultimately there is no alternative. Also, such reliance is both necessary and democratic. It is necessary because constitutional language cannot be made to provide for all the unseen eventualities of the future. Consequently, constitutional details often do not work as intended. On the contrary, they sometimes hamper good government and result in costly litigation.

Reliance on the legislature is also one of the key elements of our democratic system. The legislative halls provide the primary arena where the political desires and needs of citizens are reflected. Of course needs and desires will be conflicting ones, but it is in our legislatures that conflicts are resolved by the kind of verbal band-to-hand combat which is our American substitute for violence. Hopefully, dependence on the legislature — rather than the illusory safety of detailed constitutional language — will help to make our political system more issue oriented, and perhaps it will also tend to focus the spotlight on the places where the decisions are made which vitally affect the public welfare.

If the 1972 Constitution is adopted, the legislature will occupy a position of front and center on our political stage. Probably most delegates would agree that of all the changes they are offering the people those in the legislative article are of paramount importance. These reforms are the hub of all the other changes in the 1972 Constitution. Most delegates would also agree that the changes in the legislative article will enable our legislature to become a truly deliberative body.

Citizens should understand that no one can offer the 1972 Constitution as a panacea — as a cure-all for our sundry political ills. The proposed Constitution holds out only possibilities for the future. But it cannot automatically guarantee their fulfillment. Whether the possibilities become the reality of a better governmental system for Montana depends on the future effort, vigilance, and wisdom of her citizens. In a democratic system there can be no alternative to dependence on the people.

Article by Article Analysis

COMPACT WITH THE UNITED STATES—Article I

This statement is included to make it clear that the adoption of the proposed constitution in no way affects the validity of agreements between Montana and the federal government made when Montana became a state

DECLARATION OF RIGHTS—Article II

The Declaration of Rights in the proposed Constitution includes all the rights protected in the 1889 Constitution and adds a few more to the list. In putting together a new declaration of rights, the Convention took 27 of its 35 sections from the 1889 Constitution. Eleven of these were taken without change, nine of them were given only minor revision, such as changes in punctuation, or changes in wording. Seven sections were extensively revised and there are eight new sections.

Of the new sections, sections 8 and 9, the Right of Participation and the Right to Know, elicited the most discussion and debate in the Convention. A principle vital to a democratic society is the belief that activities of government at all levels should be opened to public examination. Those who supported the adoption of these two sections in the Convention believed that they are important in opening government to greater public scrutiny and that they could be vehicles for producing a new openness into our political system. Those who opposed the adoption of these two new sections did so largely on the ground that they could not see how they were going to work out in practice. The fact of the matter is that we will probably need considerable judicial guidelines before we know exactly how these provisions will be applied in the future.

Of the other new sections, section 18 which removes the doctrine of sovereign immunity will probably be of considerable interest. This is an old legal notion which is used to protect the state from suits by private individuals. The 1889 Constitution neither provides for nor prohibits sovereign immunity. However, courts in Montana have consistently held that the state cannot be sued without its consent, even though a Montana Supreme Court Justice acknowledged the doctrine as "out-moded, harsh and unjust." Since passage of Ch. 254, Laws of 1959, the state can be sued under certain circumstances, but the courts still invoke sovereign immunity for the state. This deeply embeded doctrine can be totally abrogated only by action of the legislature or the Convention. Delegates who favored doing away with sovereign immunity contend that the state should help administer justice against itself as well as it does between private individuals. They also maintained that just as the state is required to pay for property it takes from individuals it should also be expected to compensate when its activities result in injury. In abandoning this old doctrine that the king can do no wrong, Montana is following a national trend

Of the five other new sections, number 35 directs the legislature to show special consideration to military personnel and to veterans. Section 4 incorporates language from the 14th amendment to the Federal Constitution and prohibits private and public discrimination against individuals on the basis of sex, color or religion. This particular section will probably need support in the form of legislative enactments to be of any considerable force.

Section 10 establishes a right of privacy. The courts in Montana have recognized the existence of a right of privacy. But at a time when opportunities for invasion of privacy are increasing in number and sophistication, section 10 emphasizes that this right is essential for the preservation of a free society.

Section 14 declares that 18 is the age of adulthood for all purposes. Section 15 attempts to extend to those under 18 the procedural safeguards and rights extended adults. It stresses that when society proceeds on the assumption that minors need special treatment in the legal process it must also be careful not to abridge other rights.

Of the 7 revised sections from the 1889 Constitution, section 3 is amended by expanding the list of inalienable rights to include a right to a healthful environment, to pursue life's basic necessities, and to health. In addition to stating new rights this section also stipulates that the individual recognizes corresponding responsibilities.

Section 29 on eminent domain is amended to guarantee the citizen greater protection against the powers of the state. At present the costs of eminent domain actions sometimes fall where they do not belong, namely on the person whose property is being condemned. This section guarantees that a property owner who rejects a state offer, goes to court and succeeds in being awarded more than the state offered will be reimbursed by the state for the necessary expenses of the law suit, such as attorney fees.

Section 5 on freedom of religion amends the 1889 provision by substituting the language of the Federal Constitution for the language of the old Constitution. In doing so it eliminates language which reflected an anti-Mormon bias.

By dropping language from the old provision on habeas corpus the Convention, in section 19, is proposing that the right of habeas corpus can never be suspended by the government under any circumstances.

Section 28 on the rights of the convicted has a new provision which automatically restores an ex-convict's rights upon the termination of state supervision over him. At present an ex-convict has to secure a governor's pardon or full restoration of citizens' rights. The Convention felt that this system is a kind of perpetual punishment which is not in harmony with the idea of punishment for the purpose of rehabilitation.

Most of the revisions did not elicit much difference of opinion in the Convention. One exception to this is the new portion of section 16. A new sentence restores the workman's compensation law to what it was before passage of Chapter 49, Laws of 1965 as interpreted by the state Supreme Court. Those who opposed inclusion of this sentence maintained that it was statutory in nature and should have been left to the legislature. Supporters of its inclusion felt that the worker's right to pursue adequate compensation for industrial accidents is a basic right which should be recognized in the Constitution.

One of the sections taken intact from the old Constitution also elicited debate. This was section 12, the right to bear arms. There were some who wanted the Convention to amend the 1889 provision by adding a probibition against any future registration of guns by the state. A majority of the Convention rejected the amendment on several grounds. Those who opposed the amendment insisted that no other state constitution contains a stronger guarantee of the right to bear arms. They also expressed their belief that there is no likelihood of a movement for state registration of guns in Montana. The push for gun registration is coming from the federal level, and no language in the state Constitution can limit federal action on this subject.

GENERAL GOVERNMENT—Article III

The matters dealt with under General Government appear in Articles IV, V, X, and XIX of the 1889 constitution. The changes in sections 1, 3, 6, and 7 amount to very minor stylistic changes. Section 2, Continuity of Government, eliminates obsolete language from several sections of Article X in the 1889 Constitution on the location of the capitol and revises language of section 45 of Article V.

There are, however, some important changes in section 4 and 5 on the initiative and referendum. The purpose of these changes is to make it easier for the people to use these devices of direct participation in government. In the initiative process the percentage of signatures required for initiative petitions is reduced from 8 per cent to 5 per cent, and the number of representative districts in which this minimum number of signatures must be secured is reduced from 2/5 to 1/3. The amount of time required for the petitions to be in the hands of the Secretary of State is reduced from 4 months to 3 months. In the sections dealing with both the initiative and referendum the word "counties" is replaced by the phrase "representation districts" because counties are no longer necessarily the same as representative districts. The referendum process is liberalized slightly by a reduction of the number of representative districts from which the minimum number of signatures must be secured from 2/5 to 1/3. The prohibition of the governor's veto power over initiative and referendum measures is moved to the executive article.

Another important change in this article is removal of the old prohibition against irritating constitutional amendments. Using procedures established in article XIV of the proposed Constitution, citizens will be able to initiate constitutional amendments. Section 8 is necessary to distinguish the process of initiating laws from initiating constitutional amendments.

The proposed article does not include a description of boundaries which appears in the 1889 Constitution. The Convention decided a statement on boundaries is not necessary since federal law will prevail in this area

The Convention considered including a recall provision to enable citizens to remove an office holder prior to the next election for his office. Proponents of the recall felt that it was an important source of citizen control over his government. A majority felt that the recall could be used for the purpose of harassing public officials and that it was not really a necessary device in view of the fact that elections will be held frequently. The omission of the recall will not effect existing statutory provisions for recall of municipal officers. However, the omission probably means that the legislature cannot establish statutory provisions for recall of constitutionally elective officers.

Section 9, the final provision in the General Government Article, revises the language that presently appears in Article XIX, section 2 of the Constitution by adding the word "gambling." If item 3B on the ballot carries in the election this language will remain in the Constitution. On the other hand, if 3A carries this particular section will be stricken from the Constitution.

SUFFRAGE AND ELECTIONS—Article IV

This section covers the subject matters dealt with in Article IX of the 1889 Constitution. The proposed article eliminates sections 3, 5, 6, 10, and 12. These sections are either obsolete, purely statutory in nature, or have been superseded by federal action on the subject.

The first section of Article IV is a very simple amendment of the first section of Article IX of the 1889 Constitution. The amendment adds the word "secret." It will come as a surprise to many people that the 1889 Constitution does not guarantee a secret ballot.

Section 2, of this article revises the second section of Article IX of the present Constitution in several important particulars. It lowers the voting age from 19 to 18 to accord with the 26th amendment of the Federal Constitution, eliminates language that the United States Supreme Court has declared unconstitutional, and deletes the one-year residency requirement for voting. It also eliminates the current provision that deprives a convicted felon of the right to vote unless pardoned or restored to citizenship by the governor

Section 3, Elections, revises the old language by allowing the legislature to schedule elections and to establish residency and other requirements. It also includes a new reference to the establishment of poll booth registration. This particular language reflects the feeling of the Convention that residency requirements which sufficed in the past have become too restrictive in a mobile society. Some delegates wanted the Convention to include a mandatory requirement that citizens be allowed the right of poll booth registration such as exists in North Dakota by statute. Other delegates felt that this particular subject should be left to legislative determination since it is statutory in nature. The language that appears in section 3 is a compromise which does not require the legislature to establish a poll booth registration system but urges it to do so.

Section 4 combines revised language from several different sections of Article IX of the present Constitution. This section allows the legislature to impose special qualifications for certain offices, such as requiring the Attorney General to be a licensed attorney. The last clause pertaining to felons was added in order to make this section consistent with section 28 of the Bill of Rights. It does this and at the same time makes it clear that a convict cannot hold office while serving a penalty.

Sections 5 and 6 of this article are taken from the 1889 Constitution with some minor stylistic changes

THE LEGISLATURE—Article V

While some of the comments which follow apply only to the bicameral Legislative Article which appears in the body of the Constitution, most of the sections in the bicameral and unicameral alternatives are identical. The basic differences between the two appear in the first three sections of each article. These differences will be noted below.

The proposed Legislative Article is much shorter than the legislative article in the 1889 Constitution—some 14 sections compared to 44 effective sections. This brevity is achieved by the omission of 19 sections and the relocation of some provisions to other articles of the Constitution. Most of the sections that have been omitted deal with procedural matters which can be covered by legislative rules or statutes. Several long sections in the 1889 Constitution which deal with questions of ethics and conflict of interests are replaced in the proposed Constitution by Article XIII, section 4 which requires the legislature to establish a code of ethics for legislators and other public officials.

Unlike the 1889 Constitution which is silent on the subject, the proposed Legislative Article sets limits on the size of the legislature. The Senate will be no larger than 50 nor smaller than 40. The House will be no larger than 100 nor smaller than 80.

The proposed article deletes the requirement that the legislature shall meet on the first Monday in January. This will enable the legislature to determine its own calendar. Age qualifications for the House and Senate are deleted since eligibility for public office is covered in section 4, Article IV. The required one-year residency in the state is retained but residency in the county or district is reduced to six months. One interesting new twist in the area of residency requirements is that in those counties which contain more than one representation district a candidate for the legislature need not necessarily be a resident of the district for which he is running.

New provisions appear in section 6 dealing with sessions of the legislature. The legislature will meet annually rather than biennially in sessions of sixty legislative days rather than sixty calendar days. The legislature may increase the limit on the length of a subsequent session of the legislature. Also new is the provision that the legislature, as well as the governor, can call itself into special session by a majority vote of its members. New language also states that the legislature will be a "continuous body" for a two year period. The intention of "continuous" is not that the legislature will sit without interruption for two years but that it will continue to have legal existence even when not in session. This will make it possible to keep a bill alive from the first session of a biennium to the second session, thereby reducing the opportunity of giving bills a quiet burial in committee.

Many of the provisions of the Legislative Article are taken over with stylistic changes and revisions from the 1889 Constitution. This is the case on such subjects as the power and structure of the legislature, the terms of office for legislators, compensation, vacancies, immunity, disqualification, organization, procedure of the legislature, and regulations pertaining to bills.

However, in a few of these areas there are some important changes which are designed to provide a greater opportunity for the public to scrutinize legislative behavior. The Convention felt that the public's right to information on what the legislature is doing outweighs any need for secrecy. Accordingly, the proposed Legislative Article omits language in the present Constitution which allows the legislature to hold secret sessions. Further, section 10, subsection 3, stipulates that all committee meetings, hearings, and sessions of the legislature must be open to the public.

Paralleling these two changes is a new provision in section 11, subsection 2, which requires a recorded vote on bills in committee and committee of the whole. Under the 1889 Constitution a recorded roll call vote is required only on the final reading of a bill. The purpose of this change is to prevent the practice of "voting for the record." As it is now a legislator can take a position on the final roll call vote different from the position he took on a bill in committee.

Section 10, subsection 4 acknowledges the legislature's right to establish a legislative council and a legislative post-audit committee. This particular provision was put in the Constitution to overcome any doubt that may remain about the legislature's constitutional authority to maintain interim committees between sessions of the legislature. The legislative post audit committee is recognized in order to make it clear that retention of the State Auditor as a constitutionally elective office was not intended to replace the legislature's power to conduct legislative post audit investigations.

Another important innovation is section 14 which establishes a Reapportionment Commission to assist the legislature in securing legislative reapportionment. This five-member citizen commission is set up to be bipartisan and to function whenever the federal government provides new census data on the distribution of population within the state. In creating the commission the Convention recognized that the problem of reapportionment has been very difficult for the legislature to deal with because of the important political ramifications of apportionment. The apportionment commission will cease to function after the adoption of each apportionment plan.

The Legislative Article also embodies minor changes in several other areas. In the first place, vacancies in the legislature will be filled by special election unless otherwise provided by law. The Convention felt that with single member districts in use, special elections would not be too difficult or too costly. On the other hand, if the practice of special elections fails to work out as intended, the legislature can still provide for a method of appointment. There are also several proposed changes in the area of impeachment. The legislature would be allowed to select a body other than the Senate as a tribunal for hearing impeachment proceedings. Another change requires a 2/3 vote of the House of Representatives to begin impeachment proceedings rather than the simple majority vote at present.

The basic differences between the unicameral and bicameral legislative articles appear in the first three sections of each article. Obviously, in the case of the unicameral legislature there would be one chamber instead of two. If the electorate adopts the unicameral option the legislature will be no smaller than 90 nor larger than 105. Legislators under the unicameral article would be called Senators and they would all have four-year terms. However, their terms would be staggered—half the members would be elected every two years.

The unicameral article has a fifteenth section which stipulates that if the voters adopt the unicameral option they will be doing so only for a six-year trial period. This section requires a referendum vote in 1980 on the question "shall the unicameral legislature form be continued?" If the electorate in 1980 were to vote yes, then, of course, nothing would change. On the other hand, if the voters voted no the bicameral legislative article will be plugged into the Constitution

THE EXECUTIVE—Article VI

The proposed Executive Article deletes some language from the 1889 Constitution. It eliminates unnecessary directives to the legislature on matters pertaining to the militia in Article XIV and obsolete language about military reservations in Article II. Of greater significance, it also omits some matters in the present Article VII, the Executive Article. The proposed Article eliminates the Board of Examiners, the Board of Pardons and Board of Prison Commissioners, State Examiner and State Treasurer. Two of these boards, the Board of Prison Commissioners and the Board of Examiners, are ex officio boards. The former has no duties assigned to it by law and the latter meets infrequently and has few duties left to it. A Board of Pardons exists by statute and presumably will continue to do so. The State Treasurer will remain an elective office until such time as the legislature chooses otherwise. The State Examiner's office will also continue by statute. Most of the rest of the omitted language has had no great significance. For example, the dropping of section 18 of Article VII removes an unnecessary directive on the use of the state seal.

Most of the provisions in the 1889 Constitution on executive officers, their duties and election, are retained in revised form. Language has been shortened and clarified. Some of the minor changes pertain to qualifications for office. The required age for Governor, Lieutenant Governor, Superintendent of Public Instruction and Attorney General is reduced from 30 to 25. As an additional requirement the Attorney General must have been admitted to law practice in Montana and have had five years experience practicing law. The proposed Article also makes it clear that the legislature may provide additional qualifications for the office of Superintendent of Public Instruction.

Some of the more important changes pertain to the Lieutenant Governor. The proposal conceives of the Lieutenant Governor's off-

ice as a full time job in the executive branch In keeping with this idea, the Lieutenant Governor would no longer be the presiding officer of the Senate Instead, the Governor can assign the Lieutenant Governor non-constitutional executive duties, and the legislature can also assign other duties to him To insure compatibility the proposal requires candidates for Governor and Lieutenant Governor to run as a team

Another change consistent with the idea of the Governor and Lieutenant Governor working closely together allows the Governor to appoint a successor for the remainder of the term if the Lieutenant Governor's office becomes vacant. However, in the case of other constitutionally elective offices, a gubernatorial appointee holds office only until the next general election when the office is filled by a vote of the people

The proposed Executive Article attempts to improve upon the 1889 Constitution in the area of succession and disability in the Governor's office If the Governor-elect were to die or become disqualified and fail to take office, the Lieutenant Governor elect would become the Governor. The Convention included this provision because courts in some states have ruled that the incumbent governor continues in office

New material on the determination of disability of the Governor is based largely on the 25th amendment to the United States Constitution The present Constitution is very vague on what happens when the Governor is disabled The new material attempts to spell out the procedures for determining when a Governor is disabled and when his disability has ended It provides that the Lieutenant Governor will be the acting Governor when the Governor is disabled

Another change deletes the requirement that the Lieutenant Governor becomes the acting Governor as soon as the Governor leaves the state The Convention felt that with modern communications it was not necessary for this to be the case However, the Governor may ask the Lieutenant Governor to become acting Governor and if the Governor is absent from the state for more than 45 consecutive days the Lieutenant Governor automatically becomes acting Governor

The proposed Article includes several changes in the Governor's veto power It removes his veto power from proposed amendments to the Federal and State Constitution and resolutions of the legislature Since constitutional changes require a 2 /3 vote of the legislature, there seems to be little need for a check in the form of a veto Since resolutions merely express the sentiments of the legislative body, it seems inappropriate to allow the governor to veto such matters

The section on the veto eliminates the pocket veto and increases from 15 to 25 the number of days the Governor has to consider bills left with him by the legislature when it adjourns

The proposal gives the Governor a new power of amendatory veto Under the present system, he can either sign a bill or veto it The amendatory veto gives him a third alternative Vetoed bills are seldom overridden, yet governors have had to veto meritorious bills on technical grounds The amendatory veto is designed to meet this situation If the governor thinks a bill has merit but he has minor or technical objections to it, he can send it back to the legislature so that it can consider incorporating the Governor's suggested changes

Subsection 2 of Section 5 removes an ambiguity from the present Constitution by making it clear that an executive officer may run for some other public office during his term But it also deletes the prohibition against increasing the salary of an executive officer during his term of office. The Convention felt that in a time of inflation this provision can result in some injustice and that the legislature can be trusted not to set executive salaries too high (Article XIII, section 3 contains an additional provision on salaries.)

The proposed Executive Article makes several changes in the section on the militia One specifically allows the governor to call out the militia in the event of extreme natural disaster for the purpose of protecting life and property Another change omits any reference to age and sex qualifications This enables the legislature to determine what citizens are members of the militia and it would also allow the enlistment of women

THE JUDICIARY—Article VII

A comparison of the 1889 Judicial Article with the proposed Judicial Article reveals that the latter is much briefer—11 sections compared to 37 The Convention achieved this brevity by eliminating obsolete language which was needed for transition to statehood, archaic wording, description of judicial districts and references to such things as "calendars."

The Article is also shorter because some provisions are omitted For example, the requirement in the 1889 Constitution that supreme court judges be paid quarterly is eliminated. Also omitted are all references to the Clerk of the Supreme Court, County Attorney and Clerk of the District Court Though it would no longer be a constitutional office, the office of Clerk of the Supreme Court would continue under the statutes Both the offices of County Attorney and Clerk of the District Court are covered in section 3, subsection 2, Article XI of the proposed Constitution.

Some of the material retained from the 1889 Constitution is amended For example, the legislature will be able to increase the size of the court from the present five to seven if an increase in work load warrants it The Supreme Court's control over admission to the bar and over the conduct of the members of the bar is made explicit Another provision gives the legislature the power to review rules of procedure as prescribed by the Supreme Court. Another requires all Supreme Court decisions to be in writing Terms of office at all three levels of our judicial system will be increased by two years Supreme court justices will go from six to eight, district court judges from four to six and Justices of the Peace from two to four.

Qualifications for judicial office are altered somewhat As is presently the case for supreme court justices, candidates for district court judge must be a resident of the state for two years. The age requirement for both supreme court justices and district court judges is dropped But the addition of five years of experience in legal practice as a requirement for both positions imposes a practical age requirement Judges will be allowed travel expenses incurred in the course of their work The present provision that absence from the state for more than 60 consecutive days results in forfeiture of office is retained and to it is added the provision that a judge who files for any other public office automatically forfeits his office

There are several changes with respect to Justices of the Peace Election of justices of the peace by township is eliminated Each county will elect at least one justice of the peace. The legislature is

explicitly given the power to provide for the election of additional justices of the peace in each county. The section on justice courts states that the legislature may provide for training and qualifications for the office And it also directs the legislature to provide proper facilities so that justices can perform their duties in dignified surroundings

New provisions for filling vacancies in the courts and for the election of judges will probably interest many people. The new provisions not only retain the right of citizen choice but actually enhance that choice by making it more effective That we elect our judges under our present system is only partly true. The fact of the matter is that most of the incumbent supreme court and district court judges originally received their positions through gubernatorial appointment. Once appointed, judges more often than not have retained their positions through uncontested elections To some extent this system makes an illusion of the elective system

Under the proposed Judicial Article the Governor's choice of men to fill vacancies will be limited He will have to designate his nominee from a list of nominees selected by a process to be prescribed by law. Unlike the present system, the Governor's choice is then subject to confirmation by the Senate This method of filling vacancies is a modified type of merit selection

The election process for judges is also changed. Under the present system an incumbent judge who runs unopposed is automatically elected Under the proposed system if no one files against an incumbent judge, his name will be put on the ballot in such a way that citizens will be given the opportunity to indicate whether they wish to retain him or not If the judge is rejected by the people, the office will be vacant and will be filled in the manner provided for filling vacancies This retention or rejection of the judge is a modification of the merit retention system

If someone files against an incumbent judge an election will be held as is presently done. If an incumbent judge chooses not to run the seat will be filled by election as at present

One other totally new provision in the Judicial Article is the establishment of a Judicial Standards Commisson Under the present Constitution, the only method of removing a judge is by impeachment—a difficult process and one that has seldom been employed The purpose of a Judicial Standards Commission is to provide an alternative method of removing a judge whose work is substandard The commission will be a five member body representing bar, bench and lay citizens. It will investigate any complaints made against a judge After investigation the commission will report to the Supreme Court If the decision is that a judge's behavior is below judicial standards the Supreme Court will have several options. If the judge cannot carry out his work satisfactorily because of disability the court will be able to retire the judge Otherwise, the court may censure a judge or remove him from office.

REVENUE AND FINANCE—Article VIII

Probably in no part of its proposal has the Constitutional Convention more clearly revealed its faith in our democratic system than in the Revenue and Finance Article. The essence of that democratic faith is a belief in the capacity of the people to choose legislators who will have the ability to deal satisfactorily, fairly, and honestly with problems Detailed constitutional restrictions, especially in the area of revenue and finance, reveal a lack of faith in the democratic process Moreover, such limitations on the legislature's discretion seldom work very long as they were intended, because we overcome constitutional obstacles with subterfuges Thus, the Article on Revenue and Finance reflects a faith in the democratic process by what it leaves out as well as what is in the proposal

What will most likely first strike the faint-hearted is the absence of specific debt limitations for state, counties and other local units of government as they appear in Article XIII of the 1889 Constitution Specific dollar debt limits have not restricted our spending because the amounts are no longer realistic We get around the limits by resorting to revenue bonds which, in the long run, increase the cost of incurring indebtedness

The proposed Constitution omits any specific dollar limit because the Convention felt it could not possibly foresee future needs and, accordingly, could not realistically set a dollar limit. In place of any specific dollar amounts section 8 of the proposed Article stipulates that no state debt can be incurred unless authorized by 2 /3 vote of the legislature or a vote of a majority of the people themselves

The detailed restrictions on indebtedness of local units of government are replaced by section 10 of the proposed Article This section requires the legislature to determine debt limits for all local units of government by statute The proposed Article also omits section 4 of Article XIII of the 1889 Constitution which forbids the state from becoming involved with local indebtedness This restriction increases the cost of local government indebtedness by raising interest rates Removal of this provision will allow the legislature to work out procedures for backing bonds of local governments with the full faith and credit of the state This will result in significant savings through lower interest rates

The proposed Article omits the 2-mill statewide limit on property tax At present, and in recent years, property taxes have provided a very small proportion of state revenue sources It is not the intention of this omission to suggest that the state should turn to property taxation for revenue for state purposes

The 2 mill levy is omitted in anticipation of future needs in the area of school financing. On August 30, 1971 the California Supreme Court announced its decision in Serrano vs. Priest—a decision which has far reaching implications This case involved the problem of gross inequalities in local financing of schools. While the doctrine embodied in Serrano vs. Priest is not yet the law of the land, it has received application in Texas, Minnesota and New Jersey Some studies indicate that school financing inequities in Montana are as great as some of those where the Serrano doctrine has been applied It is, therefore, very likely that in the not too distant future, Montana will have to re-examine its entire school financing situation. Among the possible solutions to problems raised by the Serrano decision is the substitution of statewide mill levies for local levies in the financing of schools Omission of the 2 mill levy opens this option in school financing in Montana.

While the state does not rely heavily on property taxation for its own purposes it is very much involved in the administration of the property tax Despite the fact that the 1889 Constitution contains extensive details on state administration of property taxation and commands that we shall have property tax equalization within and among counties, the present system has not achieved property tax equalization In fact, the existing system has built-in pressures for competitive underassessment among counties.

At a time when the Serrano decision has brought into sharper focus the need for achieving property tax equalization, the proposed Article opens the door to equalization by leaving the details of administration to future legislative determination For the time being the present system of county boards of equalization and the State Board of Equalization will continue by statute But the deletion of details provides flexibility for meeting future needs. Hopefully the legislature can improve methods of property tax administration.

Another important change appears in section 7 which calls for the creation of a new tax appeals system substantially different from the present one Under the present system, an aggrieved taxpayer can appeal to the county board of equalization and then to the State Board of Equalization. Both boards have to be involved in approving the initial assessment This means that an administrative body sits in judgment of its own acts, a procedure which does violence to fundamental notions of justice and fairness Section 7 requires the legislature to establish an independent appeals system at both the local and state level

Other important changes are made in the 1956 Antidiversion Amendment which earmarks gasoline taxes for highway construction Automobile registration fees are omitted from the list of earmarked revenue sources Other changes allow monies to be spent on roads and street systems of local units of government and for programs of highway safety and driver education A significant change allows diversion of the earmarked highway funds to other purposes by 3 /5 vote of the legislature. Delegates who opposed this change maintained that the legislature, being hard pressed for funds, will be tempted to divert monies from highway construction to other purposes. Since agencies with earmarked funds tend to develop a high degree of independence, a majority of delegates insisted that this change is needed to make the highway department more responsible to the legislature

Some other significant changes appear in section 5 on property tax exemptions. Subsection 1 retains property tax exemptions pretty much as they are in the present Constitution But a new clause makes it clear that any private interest in exempted property may be taxed separately This closes a loophole in the present Constitution Another new clause permits assessments on exempt property for the cost of services and special improvements when the exempted property benefits from them.

Section 5 also authorizes the legislature to exempt other properties The present Constitution requires that all property must be assessed for tax purposes This provision is very difficult to enforce and encourages dishonesty because it is difficult to get certain kinds of property on the assessment rolls Section 5 will permit the legislature to exempt certain kinds of property and employ other forms of taxation when the only alternative is evasion of the law

Section 13 of the proposed Article is a substitute for Article XXI of the present Constitution—the Trust and Legacy Fund Although this Article clearly intended to establish a unified investments program for the state such a program was not established until 1972 under the Executive Reorganization Act Article XXI is long, confusing and full of obsolete provisions which have never been implemented. Proposed section 13, by contrast, is a simple substitute It too calls for a unified investments program for public funds including state help in investing funds of local units of government. The monies of various retirement systems and the funds derived from Federal Land Grants for education are clearly differentiated from investment purposes. Under the proposal it will be possible to invest some retirement monies in corporate securities On the other hand, monies of the public school fund and the university system will continue to be invested in securities of the United States, the State and its subdivisions, or other securities that bear a fixed rate of interest and are approved by the legislature

While guaranteeing that taxes will never be used for any purpose other than a public one, sections 1 and 2 of the proposed article allow the legislature freedom to establish the state's tax structure by not mentioning specific kinds of taxes Although the state has an inherent power to tax, enumeration of specific taxes in the Constitution can be interpreted as a prohibition on the use of taxes other than those listed Deletion of specific taxes provides flexibility for the future and makes it possible to adopt kinds of taxes which are now only dimly perceived or unforeseen It also recognizes the probability that we will not be forever wedded to the existing family of taxes

The remainder of the proposed Revenue and Finance Article carries over many principles and ideas from the 1889 Constitution For example, the last sentence in section 8 and all of section 9 indicate the Convention's desire to retain the principle of a balanced budget Similarly, the language in sections 4, 11, 12 and 14 indicate a determination to adhere to a prudent use of money Finally, the provision for special livestock assessments is retained but is relocated in subsection 2, section 1, Article XII

ENVIRONMENT AND NATURAL RESOURCES—Article IX

Most of the material in this Article is new Sections 1 and 2 reflect a concern with and a determination to protect Montana's environment They direct the legislature to take necessary steps to preserve the environment and to conserve the state's natural resources by preventing a headlong waste of them The Convention, of course, recognizes that Montana's non-renewable resources must be used for man's benefit but it showed particular concern about the methods which will be used to mine Eastern Montana's tremendous coal reserves Section 2 reflects a determination to prevent that portion of the state from being turned into a wasteland of stripping banks.

Section 3 deals with water rights Employing language which cannot be more emphatic, subsection 1 recognizes all existing water rights Subsection 2 is taken over from Article III, section 15 of the present Constitution with only slight changes in wording. Subsection 3 recognizes the existing fact of state ownership of all water Recognition of state ownership is not new and in no way does it affect past, present, or future appropriations of water for beneficial uses This section is included to establish Montana's claim to its waters in order to protect the state from appropriation of its water by the Federal Government or downstream states The last subsection on water is a new provision which requires the state to establish a centralized record system on water rights It will in no way effect the existing system of local records.

Section 4 is a new section which reflects the concern of a growing number of Montana citizens with the destruction of historical sites, particularly ghost towns and archeological sites. As tourism increases in volume, the prospect is a faster rate of devastation This section reflects a desire to prevent heedless ruin of our historical sites and monuments

Some delegates wanted the Constitution to recognize the environment as a public trust but a majority felt that the idea of a public trust was too vague to be embodied in the Constitution. A minority also wanted to extend to Montana's citizens the right to sue on environmental matters. Under existing law an individual has to show injury before he can begin legal proceedings A majority of the Convention felt that Montana's present statute providing for class action provides ample avenues for legal action

EDUCATION AND PUBLIC LANDS—Article X

Although the material in this article is largely taken from the 1889 Constitution with revisions in style and wording, there is a significant change in the area of administering education. The 1889 Constitution provides for a single board of education to oversee public education. Sitting as a board of regents the same group supervises the university system Under this proposal there will be two distinct boards—a Board of Public Education to supervise public education and a Board of Regents for the university system

The Convention felt that the responsibility of administering both public and higher education was a heavier load than one agency could handle adequately With separate boards each will be more time to supervise education in its area Also, problems at the two levels of education are sufficiently different to warrant separation This circumstance is recognized by the fact that all but two states have separate boards

Both boards will be made up of seven members appointed by the Governor and confirmed by the Senate All will serve overlapping terms as provided by law There are several changes in the makeup of the boards The Attorney General will no longer be an ex officio member of the boards. The Governor and Superintendent of Public Instruction will be ex officio non voting members of both boards Another change is the establishment of the office of Commissioner of Higher Education. The exact nature of this office will depend on how the regents define his duties and powers, but he will also be an ex officio non voting member of the Board of Public Education

The two boards will sit together as a single state Board of Education for coordinating education at all levels and for determining budget requests

Section 1 recognizes, for the first time in our fundamental law, the special position of the American Indian and his contribution to our cultural heritage It recognizes equality of educational opportunities as a basic right and at the same time emphasizes that such opportunities shall be of a high quality. It commits the state to the responsibility of achieving these two goals of quality and equality

Sections 4, 5 and 11 dealing with public school lands and the public school fund contain some revisions Membership on the state Board of Land Commissioners will be increased from four to five with the addition of the state Auditor The board is clearly given the power to manage state lands for other lands than just to the state's advantage The proposed Article also omits the land classification system specified in the present Constitution and leaves the manner of classification up to the legislature

There are also several changes in the method of distributing interest and income monies from school land and from investment of the public school fund The requirement that interest and income monies shall be "equitably apportioned" replaces the present distribution of the monies on the basis of the number of children between 6 and 21 in each school district This change will save between $53,000 and $60,000 each year by eliminating the need for a special school census A second change includes high schools among the beneficiaries of the monies

Section 6 of the proposed Article contains the prohibition in the 1889 Constitution against state aid to sectarian schools with only minor style revisions Subsection 2 of section 6 is a new provision which was added to make it clear that while the state itself will not provide any funds for sectarian schools it can act as an agent for the distribution of federal funds to non-public schools This change recognizes existing practice but removes any doubt about its constitutionality

Section 8 is a new provision which guarantees local control of school districts The present Constitution does not contain such a guarantee This section also omits language in the present Constitution which requires special elections for school district officers This change will make it possible to save considerable sums of money by holding school elections in conjunction with other elections

LOCAL GOVERNMENT — Article XI

This Article offers flexibility, accountability, and economy. If citizens wish to alter the structure of their local government, the proposed article offers flexibility by providing broad options so that local government structures may be tailored to fit local needs Accountability is assured by the fact that no future changes in any local government can be made without the approval of the voters The article also offers economy In availing themselves of opportunities for restructuring local governments, citizens are given the chance to economize by ending needless duplication of offices and services

Like the 1889 Constitution the proposed article guarantees existing county boundaries and location of county seats On this subject the proposed article differs from the 1889 Constitution in one respect. At present the people can alter county boundaries or change the location of county seats by a vote of a majority of the qualified electors The proposal makes it easier to make changes by requiring a majority of those voting rather than a majority of qualified electors

Section 3 of the proposed article is a replacement for section 7, Article XVI of the 1889 Constitution with a very decided shift in emphasis. The provision in the present Constitution clearly indicates that local governments are creatures of the legislature Subject to a vote of the people, the legislature can create, alter, or abolish local governments as it wishes The emphasis of this new section is to have the legislature provide as many options as possible for structuring local government so the people can decide locally the kind of government they wish to have Section 3 guarantees that one of the options the legislature must provide for county government is the traditional one with the present list of county officers This section retains from the present Constitution the power of the county commissioners to consolidate county offices and adds a new provision which allows commissioners of two or more counties to combine offices by establishing elective offices for a multi-county area

Section 4 contains new provisions which are intended to expand the powers of those local governments which choose to retain their traditional forms. In construing the powers of local governments, courts generally will deny a questionable power if there is any doubt in the court's mind about the existence of the power Courts in Montana have been particularly restrictive in their interpretation of the powers of county governments. This section attempts to alter this situation by specifically extending legislative power to counties and by urging that the powers of all local units of government be liberally construed

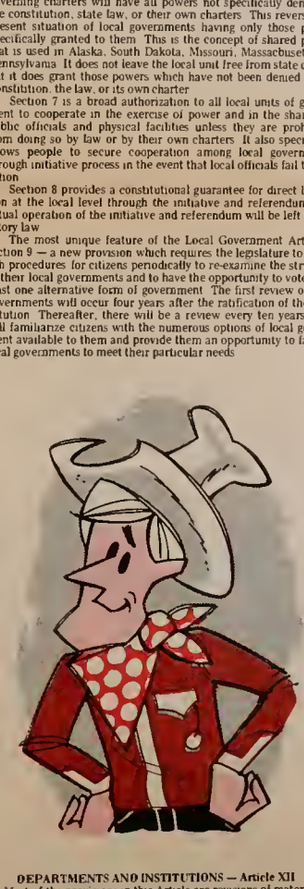
Sections 5 and 6 provide citizens who wish to depart from traditional forms of local government the chance to do so through self government charters Section 5 directs the legislature to establish procedures for local governments to adopt charters If the legislature fails to provide such procedures, citizens will still be able to adopt charters through initiative or by special elections set up by local officials. No self government charter can go into effect unless it is approved by a majority of those voting on the question

Section 6 provides that local government units which adopt self governing charters will have all powers not specifically denied by the constitution, state law, or their own charters This reverses the present situation of local governments having only those powers specifically granted to them This is the concept of shared powers that is used in Alaska, South Dakota, Missouri, Massachusetts and Pennsylvania It does not leave the local unit free from state control but it does grant those powers which have not been denied by the Constitution, the law, or its own charter

Section 7 is a broad authorization to all local units of government to cooperate in the exercise of power and in the sharing of public officials and physical facilities unless they are prohibited from doing so by law or by their own charters It also specifically allows people to secure cooperation among local governments through initiative process in the event that local officials fail to take action

Section 8 provides a constitutional guarantee for direct legislation at the local level through the initiative and referendum. The actual operation of the initiative and referendum will be left to statutory law

The most unique feature of the Local Government Article is section 9 — a new provision which requires the legislature to establish procedures for citizens periodically to re-examine the structure of their local governments and to have the opportunity to vote on at least one alternative form of government The first review of local governments will occur four years after the ratification of the Constitution Thereafter, there will be a review every ten years This will familiarize citizens with the numerous options of local government available to them and provide them an opportunity to fashion local governments to meet their particular needs



DEPARTMENTS AND INSTITUTIONS — Article XII

Most of the provisions in this Article are revisions of material in the present Constitution Sections 1 and 2 guarantee that among the 20 departments listed in the Executive Article there will be departments of Labor and Agriculture The section on agriculture amends the present Constitution in several particulars Omission of any reference to a Commissioner of Agriculture frees the legislature to head up the Department of Agriculture as it sees fit The provision in the present Constitution for special livestock levies is retained but the limitation of 4 mills is omitted The amended provision will allow special levies on agricultural commodities as well as livestock

Section 2 retains the 8-hour day provision of the present Constitution in a revised form which will enable the legislature to recognize special situations such as the need for longer working days in the construction industry during good weather

Section 3 on institutions and assistance revises the present Constitution by omitting reference to the specific kinds of institutions the state will maintain and by deleting reference to "several counties" The omission of reference to counties leaves to the legislature the determination of the amount of public assistance and the means by which it will be supplied

Subsection 2 of section 3 is a new provision which declares that a citizen who is admitted to a state institution retains all his rights that are compatible with being in the institution It also stipulates that upon release from state supervision the citizen receives an automatic restoration of all rights without any expensive or humiliating legal proceedings

GENERAL PROVISIONS — Article XIII

Subsection 1 of section 1 retains from the 1889 Constitution the legislature's power to pass laws affecting corporations as long as the laws are general in their application Subsection 2 is a new provision which directs the legislature to pass new laws for protection of consumers. Subsection 3 is a new provision which is intended to protect the sanctity of contractural obligations

Section 2 is a new section which requires the legislature to create the office of Consumer Counsel to represent customers of public utilities. The Public Service Commission acts as a referee between utility companies and their customers at rate hearings The customer's interests are not adequately represented if they are unable to hire their own counsel and experts With this provision the state guarantees that the customer's side is represented The cost of supporting this new office will be defrayed by a special tax on utility companies whose rates are set by the Public Service Commission

Another new provision appears in section 3 which directs the legislature to create a Salary Commission to help the legislature determine the salaries of elected public officials Because it fears being regarded as a spendthrift body, the legislature is reluctant to increase salaries Consequently, Montana's officials are sometimes paid less than officials in comparable states The Salary Commission will inform the legislature of prevailing salaries and help retain public confidence in the legislature when it acts on salary matters

Section 4 is a new section which replaces four sections of the present Constitution which define bribery, corrupt solicitation and conflict of interest This section directs the legislature to pass laws to define ethical and unethical conduct and to define conflict of interests for legislators, elected officials, and public employees

Section 5 and 6 are taken verbatim from the present Constitution

CONSTITUTIONAL REVISION — Article XIV

This Article retains a revised form of the provisions in the present Constitution on constitutional amendments and constitutional conventions. It also includes some new provisions on both subjects The revisions and the new language are designed to make it easier for the people to secure constitutional change

The present provisions for submission of constitutional amendments to the people through the legislative process is retained with two changes The 1889 Constitution allows the legislature to put only three amendments on the ballot at each general election The proposed article omits any specific limit on the number of amendments that may be submitted at an election If more than one amendment is submitted the only requirement is that each one be clearly designated on the ballot so that they can be voted on separately

It should prove easier for the legislature to put amendments on the ballot under the proposed article The present Constitution requires a 2 /3 vote of members of each house of the legislature for submission of constitutional amendments to the people The proposal changes this to a 2 /3 vote of the total number of legislators rather than the 2 /3 vote of members of each house

Citizens will have an alternative to securing constitutional amendments in the usual manner of legislative submission A new provision allows the people to secure constitutional amendments through the initiative process by directing the Secretary of State to put a constitutional amendment on the ballot if initiative petitions include the necessary and sufficient signatures

Similarly, another new provision enables the people to initiate a referendum vote on the question of calling a constitutional convention The process of using the initiative for securing constitutional changes either through amendment or by convention is more difficult than initiating statutory law Petition signatures must represent 10% rather than 5% of the electors in 2 /5 rather than 1 /3 of all legislative districts

The legislature will retain its power to call a constitutional convention and it will be able to do so by a 2 /3 vote of all legislators rather than a 2 /3 vote of each house, as at present But the legislature will not be able to restrict the agenda of any future constitutional convention it calls because inclusion of the word "unlimited" in section 1 of the proposed article makes it clear that the legislature cannot confine the work of a convention to a limited purpose

Another change allows the legislature to decide whether delegates to a future constitutional convention will be elected on a partisan or non partisan basis As interpreted by the Montana Supreme Court, the 1889 Constitution requires partisan elections

In its revision of the present Constitution, section 7 of the proposed article permits more freedom in setting up the calendar for constitutional change by the convention method by omitting the present requirement that a constitutional convention must meet within three months after election of delegates, and that the convention must submit its proposals to the people no later than six months after adjournment The first change gives the legislature greater freedom in setting the meeting date of a future convention and the second gives the convention greater freedom in determining when to hold an election on its proposals

To guarantee that the people have ample opportunity to pass on the question of the need for constitutional change another new provision requires that at least every 20 years the people be given a chance of voting on the question of holding a constitutional convention

Constitution of the State of Montana

Preamble

We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.

Article I

COMPACT WITH THE UNITED STATES

All provisions of the enabling act of Congress (approved February 22, 1889, 25 Stat. 676), as amended and of Ordinance No. 1, appended to the Constitution of the state of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana

Article II

DECLARATION OF RIGHTS

Section 1. POPULAR SOVEREIGNTY. All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Section 2. SELF-GOVERNMENT. The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

Section 3. INALIENABLE RIGHTS. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Section 4. INDIVIDUAL DIGNITY. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

Section 5. FREEDOM OF RELIGION. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof

Section 6 FREEDOM OF ASSEMBLY. The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action.

Section 7. FREEDOM OF SPEECH, EXPRESSION, AND PRESS. No law shall be passed impairing the freedom of speech or expression. Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty. In all suits and prosecutions for libel or slander the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Section 8. RIGHT OF PARTICIPATION. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

Section 9. RIGHT TO KNOW. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure

Section 10. RIGHT OF PRIVACY. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

Section 11. SEARCHES AND SEIZURES. The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures. No warrant to search any place, or seize any person or thing shall issue without describing the place to be searched or the person or thing to be seized, or without probable cause, supported by oath or affirmation reduced to writing.

Section 12. RIGHT TO BEAR ARMS. The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Section 13. RIGHT OF SUFFRAGE. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Section 14. ADULT RIGHTS. A person 18 years of age or older is an adult for all purposes.

Section 15. RIGHTS OF PERSONS NOT ADULTS. The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this article unless specifically precluded by laws which enhance the protection of such persons.

Section 16. THE ADMINISTRATION OF JUSTICE. Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workmen's Compensation Laws of this state. Right and justice shall be administered without sale, denial, or delay.

Section 17. DUE PROCESS OF LAW. No person shall be deprived of life, liberty, or property without due process of law.

Section 18. STATE SUBJECT TO SUIT. The state, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1973.

Section 19. HABEAS CORPUS. The privilege of the writ of habeas corpus shall never be suspended.

Section 20. INITIATION OF PROCEEDINGS. (1) Criminal offenses within the jurisdiction of any court inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those on appeal, shall be prosecuted either by information, after examination and commitment by a magistrate or after leave granted by the court, or by indictment without such examination, commitment or leave.

(2) A grand jury shall consist of eleven persons, of whom eight roust concur to find an indictment. A grand jury shall be drawn and summoned only at the discretion and order of the district judge.

Section 21. BAIL. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Section 22. EXCESSIVE SANCTIONS. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Section 23. DETENTION. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner provided by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof.

Section 24. RIGHTS OF THE ACCUSED. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face, to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Section 25. SELF-INCRIMINATION AND DOUBLE JEOPARDY. No person shall be compelled to testify against himself in a criminal proceeding. No person shall be again put in jeopardy for the same offense previously tried in any jurisdiction.

Section 26. TRIAL BY JURY. The right of trial by jury is secured to all and shall remain inviolate. But upon default of appearance or by consent of the parties expressed in such manner as the law may provide, all cases may be tried without a jury or before fewer than the number of jurors provided by law. In all civil actions, two-thirds of the jury may render a verdict, and a verdict so rendered shall have the same force and effect as if all had concurred therein. In all criminal actions, the verdict shall be unanimous

Section 27. IMPRISONMENT FOR DEBT. No person shall be imprisoned for debt except in the manner provided by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Section 28. RIGHTS OF THE CONVICTED. Laws for the punishment of crime shall be founded on the principles of prevention and reformation. Full rights are restored by termination of state supervision for any offense against the state.

Section 29. EMINENT DOMAIN. Private property shall not be taken or damaged for public use without just compensation to the full extent of the loss having been first made to or paid into court for the owner. In the event of litigation, just compensation shall include necessary expenses of litigation to be awarded by the court when the private property owner prevails.

Section 30. TREASON AND DESCENT OF ESTATES. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislature; no conviction shall cause the loss of property to the relatives or heirs of the convicted. The estates of suicides shall descend or vest as in cases of natural death.

Section 31. EX POST FACTO, OBLIGATION OF CONTRACTS, AND IRREVOCABLE PRIVILEGES. No ex post facto law nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislature.

Section 32. CIVILIAN CONTROL OF THE MILITARY. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner provided by law.

Section 33. IMPORTATION OF ARMED PERSONS. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislature, or of the governor when the legislature cannot be convened.

Section 34. UNENUMERATED RIGHTS. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Section 35. SERVICEMEN, SERVICEWOMEN, AND VETERANS. The people declare that Montana servicemen, servicewomen, and veterans may be given special considerations determined by the legislature.

Article III

GENERAL GOVERNMENT

Section 1. SEPARATION OF POWERS. The power of the government of this state is divided into three distinct branches—legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Section 2. CONTINUITY OF GOVERNMENT. The seat of government shall be in Helena, except during periods of emergency resulting from disasters or enemy attack. The legislature may enact laws to insure the continuity of government during a period of emergency without regard for other provisions of the constitution. They shall be effective only during the period of emergency that affects a particular office or governmental operation.

Section 3. OATH OF OFFICE. Members of the legislature and all executive, ministerial and judicial officers, shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity (so help me God)." No other oath, declaration, or test shall be required as a qualification for any office or public trust.

Section 4. INITIATIVE. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five per cent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five per cent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

Section 5. REFERENDUM. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five per cent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five per cent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state not later than [illegible] months after adjournment of the session at which the act was passed and voting.

(2) An act referred to the people by petition on each subject or question shall be voted upon separately by the legislature, or in committee of the whole, by a yes and no public vote. On final passage the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject clearly expressed in its title. If any subject is embraced in any act which is not expressed in the title, only so much of the act not properly expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, association, or private corporation not under control of the state. [illegible] shall be allowed on the ground of non-compliance with this [illegible] only when [illegible] SPECIAL LEGISLATION [illegible] passed [illegible] or [illegible] shall [illegible] an be made, applicable.

Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as tribunal.

(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

Article IV

THE LEGISLATURE

Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum.

Section 2. SIZE. The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members.

Section 3. ELECTION AND TERMS. A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years each to begin on a date provided by law. One-half of the senators shall be elected every two years.

Section 4. QUALIFICATIONS. A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

Section 5. COMPENSATION. Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

Section 6 SESSIONS. The legislature shall be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

Section 7. VACANCIES. A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

Section 8. IMMUNITY. A member of the legislature is privileged from arrest during attendance at session of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Section 9. DISQUALIFICATION. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or the militia) under the United States or this state, shall be a member of the legislature during his continuance in office.

Section 10. ORGANIZATION AND PROCEDURE. (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Section 11. BILLS. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by [illegible] vote and voting.

(2) [illegible] vote of each house of the legislature on each substantive question in the [illegible] committee, or in committee of the whole shall be taken and made public. On final passage the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject clearly expressed in its title. If any subject is embraced in any act which is not expressed in the title, only so much of the act not properly expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, association, or private corporation not under control of the state. [illegible] shall be allowed on the ground of non-compliance with this [illegible] only when [illegible] SPECIAL LEGISLATION [illegible] passed [illegible] or [illegible] shall [illegible] an be made, applicable.

Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as tribunal.

(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

Article VI

THE EXECUTIVE

Section 1. OFFICERS. (1) The executive branch includes a governor, lieutentant governor, secretary of state, attorney general, superintendent of public instruction, and auditor.

(2) Each holds office for a term of four years which begins on the first Monday of January next succeeding election, and until a successor is elected and qualified.

(3) Each shall reside at the seat of government, there keep the public records of his office, and perform such other duties as are provided in this constitution and by law.

Section 2. ELECTION. (1) The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor shall be elected by the qualified electors at a general election provided by law.

(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and lieutenant governor are voted upon together in primary and general elections.

Section 3. QUALIFICATIONS. (1) No person shall be eligible to the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has resided within the state two years next preceding his election.

(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least five years before election.

(3) The superintendent of public instruction shall have such educational qualifications as are provided by law.

Section 4. DUTIES. (1) The executive power is vested in the governor who shall see that the laws are faithfully executed. He shall have such other duties as are provided in this constitution and by law.

(2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant governor.

(3) The secretary of state shall maintain official records of the executive branch and of the acts of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties provided by law

(4) The attorney general is the legal officer of the state and shall have the duties and powers provided by law.

(5) The superintendent of public instruction and the auditor shall have such duties as are provided by law.

Section 5. COMPENSATION. (1) Officers of the executive branch shall receive salaries provided by law.

(2) During his term, no elected officer of the executive branch may hold another public office or receive compensation for services from any other governmental agency. He may be a candiate for any public office during his term.

Section 6. VACANCY IN OFFICE. (1) If the office of lieutenant governor becomes vacant by his succession to the office of governor, or by his death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the elected governor and the elected lieutenant governor become unable to serve in the office of governor, succession to the respective offices shall be as provided by law for the period until the next general election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.

(2) If the office of secretary of state, attorney general, auditor, or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office until the next general election and until a successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was elected.

Section 7. 20 DEPARTMENTS. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a department.

Section 8. APPOINTING POWER. (1) The departments provided for in section 7 shall be under the supervision of the governor. Except as otherwise provided in this constitution or by law, each department shall be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office until the end of the governor's term unless sooner removed by the governor.

(2) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this constitution or by law whose appointment or election is not otherwise provided for. They shall hold office until the end of the governor's term unless sooner removed by the governor.

(3) If a vacancy occurs in any such office when the legislature is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the office is filled by appointment and confirmation.

(4) A person not confirmed by the senate for an office shall not, except at its request be nominated again for that office at the same session, or be appointed to that office when the legislature is not in session.

Section 9. BUDGET AND MESSAGES. The governor shall at the beginning of each legislative session, and may at other times, give the legislature information and recommend measures he considers necessary. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed expenditures and estimated revenue of the state.

Section 10. VETO POWER. (1) Each bill passed by the legislature, except bills proposing amendments to the Montana constitution, bills ratifying proposed amendments to the United States constitution, resolutions, and initiative and referendum measures, shall be submitted to the governor for his signature. If he does not sign or veto the bill within five days after its delivery to him if the legislature is in session or within 25 days if the legislature is adjourned, it shall become law. The governor shall return a vetoed bill to the legislature with a statement of his reasons therefor

(2) The governor may return any bill to the legislature with his recommendation for amendment. If the legislature passes the bill in accordance with the governor's recommendation, it shall again return the bill to the governor for his reconsideration. The governor shall not return a bill for amendment a second time.

(3) If after receipt of a veto message, two-thirds of the members present approve the bill, it shall become law.

(4) If the legislature is not in session when the governor vetoes a bill, he shall return the bill with his reasons theretor to the legislature as provided by law. The legislature may reconvene to reconsider any bill so vetoed.

(5) The governor may veto items in appropriation bills, and in such instances the procedure shall be the same as upon veto of an entire bill.

Section 11. SPECIAL SESSION. Whenever the governor considers it in the public interest, he may convene the legislature.

Section 12. PARDONS. The governor may grant reprieves, commutations and pardons, restore citizenship, and suspend and remit fines and forfeitures subject to procedures provided by law.

Section 13. MILITIA. (1) The governor is commander-in-chief of the militia forces of the state, except when they are in the actual service of the United States. He may call out any part or all of the forces to aid in the execution of the laws, suppress insurrection, repel invasion, or protect life and property in natural disasters.

(2) The militia forces shall consist of all able-bodied citizens of the state except those exempted by law.

Section 14. SUCCESSION. (1) If the governor-elect is disqualified or dies, the lieutenant governor-elect upon qualifying for the office shall become governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor-elect upon qualifying as such shall serve as acting governor until the governor elect is able to assume office or until the office becomes vacant.

(2) The lieutenant governor shall serve as acting governor when so requested in writing by the governor. After the governor has been absent from the state for more than 45 consecutive days, the lieutenant governor shall serve as acting governor.

(3) He shall serve as acting governor when the governor is so disabled as to be unable to communicate to the lieutenant governor the fact of his inability to perform the duties of his office. The lieutenant governor shall continue to serve as acting governor until the governor is able to resume the duties of his office.

(4) Whenever, at any other time, the lieutenant governor and attorney general transmit to the legislature their written declaration that the governor is unable to discharge the powers and duties of his office, the legislature shall convene to determine whether he is able to do so.

(5) If the legislature, within 21 days after convening, determines by two-thirds vote of its members that the governor is unable to discharge the powers and duties of his office, the lieutenant governor shall serve as acting governor. Thereafter, when the governor transmits to the legislature his written declaration that no inability exists, he shall resume the powers and duties of his office within 15 days, unless the legislature determines otherwise by two-thirds vote of its members. If the legislature so determines, the lieutenant governor shall continue to serve as acting governor.

(6) If the office of governor becomes vacant by reason of death, resignation, or disqualification, the lieutenant governor shall become governor for the remainder of the term, except as provided in this constitution.

(7) Additional succession to fill vacancies shall be provided by law.

(8) When there is a vacancy in the office of governor, the successor shall be the governor. The acting governor shall have the powers and duties of the office of governor only for the period during which he serves.

Section 15. INFORMATION FOR GOVERNOR. (1) The governor may require information in writing, under oath when required, from the officers of the executive branch upon any subject relating to the duties of their respective offices.

(2) He may require information in writing, under oath, from all officers and managers of state institutions.

(3) He may appoint a committee to investigate and report to him upon the condition of any executive office or state institution.

Article VII

THE JUDICIARY

Section 1. JUDICIAL POWER. The judicial power of the state is vested in one supreme court, district courts, justice courts, and such other courts as may be provided by law.

Section 2. SUPREME COURT JURISDICTION. (1) The supreme court has appellate jurisdiction and may issue, hear, and determine writs appropriate thereto. It has original jurisdiction to issue, hear, and determine writs of habeas corpus and such other writs as may be provided by law.

(2) It has general supervisory control over all other courts.

(3) It may make rules governing appellate procedure, practice and procedure for all other courts, admission to the bar and the conduct of its members. Rules of procedure shall be subject to disapproval by the legislature in either of the two sessions following promulgation

(4) Supreme court process shall extend to all parts of the state

Section 3. SUPREME COURT ORGANIZATION. (1) The supreme court consists of one chief justice and four justices, but the legislature may increase the number of justices from four to six. A majority shall join in and pronounce decisions, which must be in writing.

(2) A district judge shall be substituted for the chief justice or a justice in the event of disqualification or disability, and the opinion of the district judge sitting with the supreme court shall have the same effect as an opinion of a justice.

Section 4. DISTRICT COURT JURISDICTION. (1) The district court has original jurisdiction in all criminal cases amounting to felony and all civil matters and cases at law and in equity. It may issue all writs appropriate to its jurisdiction. It shall have the power of naturalization and such additional jurisdiction as may be delegated by the laws of the United States or the state of Montana. Its process shall extend to all parts of the state.

(2) The district court shall hear appeals from inferior courts as trials anew unless otherwise provided by law. The legislature may provide for direct review by the district court of decisions of administrative agencies.

(3) Other courts may have jurisdiction of criminal cases not amounting to felony and such jurisdiction concurrent with that of the district court as may be provided by law.

Section 5. JUSTICES OF THE PEACE. (1) There shall be elected in each county at least one justice of the peace with qualifications, training, and monthly compensation provided by law. There shall be provided such facilities that they may perform their duties in dignified surroundings.

(2) Justice courts shall have such original jurisdiction as may be provided by law. They shall not have trial jurisdiction in any criminal case designated a felony except as examining courts.

(3) The legislature may provide for additional justices of the peace in each county.

Section 6. JUDICIAL DISTRICTS. (1) The legislature shall divide the state into judicial districts and provide for the number of judges in each district. Each district shall be formed of compact territory and be bounded by county lines.

(2) The legislature may change the number and boundaries of judicial districts and the number of judges in each district, but no change in boundaries or the number of districts or judges therein shall work a removal of any judge from office during the term for which he was elected or appointed.

(3) The chief justice may, upon request of the district judge, assign district judges and other judges for temporary service from one district to another, and from one county to another.

Section 7. TERMS AND PAY. (1) All justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office.

(2) Terms of office shall be eight years for supreme court justices, six years for district court judges, four years for justices of the peace, and as provided by law for other judges.

Section 8. SELECTION. (1) The governor shall nominate a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made

(2) If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.

(3) If an incumbent does not run, there shall be an election for

the office.

Section 9. QUALIFICATIONS. (1) A citizen of the United States who has resided in the state two years immediately before taking office is eligible to the office of supreme court justice or district court judge if admitted to the practice of law in Montana for at least five years prior to the date of appointment or election. Qualifications and methods of selection of judges of other courts shall be provided by law.

(2) No supreme court justice or district court judge shall solicit or receive compensation in any form whatever on account of his office, except salary and actual necessary travel expense.

(3) Except as otherwise provided in this constitution, no supreme court justice or district court judge shall practice law during his term of office, engage in any other employment for which salary or fee is paid, or hold office in a political party.

(4) Supreme court justices shall reside within the state. Every other judge shall reside during his term of office in the district, county, township, precinct, city or town in which he is elected or appointed.

Section 10. FORFEITURE OF JUDICIAL POSITION. Any holder of a judicial position forfeits that position by either filing for an elective public office other than a judicial position or absenting himself from the state for more than 60 consecutive days.

Section 11. REMOVAL AND DISCIPLINE. (1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys.

(2) The commission shall investigate complaints, make rules implementing this section, and keep its proceedings confidential. It may subpoena witnesses and documents.

(3) Upon recommendation of the commission, the supreme court may

(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent, or

(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.

Article VIII

REVENUE AND FINANCE

Section 1. TAX PURPOSES. Taxes shall be levied by general laws for public purposes.

Section 2. TAX POWER INALIENABLE. The power to tax shall never be surrendered, suspended, or contracted away.

Section 3. PROPERTY TAX ADMINISTRATION. The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.

Section 4. EQUAL VALUATION. All taxing jurisdictions shall use the assessed valuation of property established by the state.

Section 5. PROPERTY TAX EXEMPTIONS. (1) The legislature may exempt from taxation

(a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.

(b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.

(c) Any other classes of property.

(2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

Section 6. HIGHWAY REVENUE NON-DIVERSION. (1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

Section 7. TAX APPEALS. The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level.

Section 8. STATE DEBT. No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

Section 9. BALANCED BUDGET. Appropriations by the legislature shall not exceed anticipated revenue.

Section 10. LOCAL GOVERNMENT DEBT. The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

Section 11. USE OF LOAN PROCEEDS. All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

Section 12. STRICT ACCOUNTABILITY. The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

Section 13. INVESTMENT OF PUBLIC FUNDS. (1) The legislature shall provide for a unified investment program for public funds and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except for monies contributed to retirement funds, no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

Section 14. PROHIBITED PAYMENTS. Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance thereof.

Article IX

ENVIRONMENT AND NATURAL RESOURCES

Section 1. PROTECTION AND IMPROVEMENT. (1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.

(2) The legislature shall provide for the administration and enforcement of this duty.

(3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Section 2. RECLAMATION. All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

Section 3. WATER RIGHTS. (1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.

(2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.

(3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

Section 4. CULTURAL RESOURCES. The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.

Article X

EDUCATION AND PUBLIC LANDS

Section 1. EDUCATIONAL GOALS AND DUTIES. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Section 2. PUBLIC SCHOOL FUND. The public school fund of the state shall consist of (1) Proceeds from the school lands which have been or may hereafter be granted by the United States,

(2) Lands granted in lieu thereof,

(3) Lands given or granted by any person or corporation under any law or grant of the United States,

(4) All other grants of land or money made from the United States for general educational purposes or without special purpose,

(5) All interests in estates that escheat to the state,

(6) All unclaimed shares and dividends of any corporation incorporated in the state,

(7) All other grants, gifts, devises or bequests made to the state for general educational purposes.

Section 3. PUBLIC SCHOOL FUND INVIOLATE. The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

Section 4. BOARD OF LAND COMMISSIONERS. The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

Section 5. PUBLIC SCHOOL FUND REVENUE. (1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be equitably apportioned annually to public elementary and secondary school districts as provided by law.

(2) The remaining five percent of all interest received on the public school fund, and the remaining five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolable part thereof.

Section 6. AID PROHIBITED TO SECTARIAN SCHOOLS. (1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

Section 7. NON-DISCRIMINATION IN EDUCATION. No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

Section 8. SCHOOL DISTRICT TRUSTEES. The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

Section 9. BOARDS OF EDUCATION. (1) There is a state board of education composed of the board of regents of higher education and the board of public education.

It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

Section 10. STATE UNIVERSITY FUNDS. The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed by the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

Section 11. PUBLIC LAND TRUST, DISPOSITION. (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, nor until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.

Article XI

LOCAL GOVERNMENT

Section 1. DEFINITION. The term "local government units" includes, but is not limited to, counties and incorporated cities and towns. Other local government units may be established by law.

Section 2. COUNTIES. The counties of the state are those that exist on the date of ratification of this constitution. No county boundary may be changed or county seat transferred until approved by a majority of those voting on the question in each county affected.

Section 3. FORMS OF GOVERNMENT. (1) The legislature shall provide methods for governing local government units and procedures for incorporating, classifying, merging, consolidating, and dissolving such units, and altering their boundaries. The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question.

(2) One optional form of county government includes, but is not limited to, the election of three county commissioners, a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a surveyor, a county superintendent of schools, an assessor, a coroner, and a public administrator. The terms, qualifications, duties, and compensation of those offices shall be provided by law. The Board of county commissioners may consolidate two or more such offices. The Boards of two or more counties may provide for a joint office and for the election of one official to perform the duties of any such offices in those counties.

Section 4. GENERAL POWERS. (1) A local government unit without self-government powers has the following general powers:

(a) An incorporated city or town has the powers of a municipal corporation and legislative, administrative, and other powers provided or implied by law.

(b) A county has legislative, administrative, and other powers provided or implied by law.

(c) Other local government units have powers provided by law.

(2) The powers of incorporated cities and towns and counties shall be liberally construed.

Section 5. SELF-GOVERNMENT CHARTERS. (1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body.

(2) If the legislature does not provide such procedures by July 1, 1975, they may be established by election either

(a) Initiated by petition in the local government unit or combination of units; or

(b) Called by the governing body of the local government unit or combination of units.

(3) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 6. SELF-GOVERNMENT POWERS. A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 3.

Section 7. INTERGOVERNMENTAL COOPERATION. (1) Unless prohibited by law or charter, a local government unit may

(a) cooperate in the exercise of any function, power, or responsibility with,

(b) share the services of any officer or facilities with,

(c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government units, school districts, the state, or the United States.

(2) The qualified electors of a local government unit may, by initiative or referendum, require it to do so.

Section 8. INITIATIVE AND REFERENDUM. The legislature shall extend the initiative and referendum powers reserved to the people by the constitution to the qualified electors of each local government unit.

Section 9. VOTER REVIEW OF LOCAL GOVERNMENT. (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require a review procedure once every ten years after the first election.

Article XII

DEPARTMENTS AND INSTITUTIONS

Section 1. AGRICULTURE. (1) The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture.

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predator control, and livestock and commodity inspection, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

Section 2. LABOR. (1) The legislature shall provide for a Department of Labor and Industry, headed by a Commissioner appointed by the governor and confirmed by the senate.

(2) A maximum period of 8 hours is a regular day's work in all industrial and employment except agriculture and stock raising. The legislature may change this maximum period to promote the general welfare.

Section 3. INSTITUTIONS AND ASSISTANCE. (1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature shall provide such economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities, or misfortune may have need for the aid of society.

Article XIII

GENERAL PROVISIONS

Section 1. NON-MUNICIPAL CORPORATIONS. (1) Corporate charters shall be granted, modified, or dissolved only pursuant to general law.

(2) The legislature shall provide protection and education for the people against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations.

(3) The legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed.

Section 2. CONSUMER COUNSEL. The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

Section 3. SALARY COMMISSION. The legislature shall create a salary commission to recommend compensation for the judiciary and elected members of the legislative and executive branches.

Section 4. CODE OF ETHICS. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

Section 5. EXEMPTION LAWS. The legislature shall enact liberal homestead and exemption laws.

Section 6. PERPETUITIES. No perpetuities shall be allowed except for charitable purposes.

Article XIV

CONSTITUTIONAL REVISION

Section 1. CONSTITUTIONAL CONVENTION. The legislature, by an affirmative vote of two-thirds of all the members, whether one or more bodies, may at any time submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution.

Section 2. INITIATIVE FOR CONSTITUTIONAL CONVENTION. (1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

Section 3. PERIODIC SUBMISSION. If the question of holding a convention is not otherwise submitted during any period of 20 years, it shall be submitted as provided by law at the general election in the seventeenth year following the last submission.

Section 4. CALL OF CONVENTION. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session. The number of delegates to the convention shall be the same as that of the larger body of the legislature. The qualifications of delegates shall be the same as the highest qualifications required for election to the legislature. The legislature shall determine whether the delegates may be nominated on a partisan or a non-partisan basis. They shall be elected at the same places and in the same districts as are the members of the legislative body determining the number of delegates.

Section 5. CONVENTION EXPENSES. The legislature shall, in the act calling the convention, designate the day, hour, and place of its meeting, and fix and provide for the pay of its members and officers and the necessary expenses of the convention.

Section 6. OATH, VACANCIES. Before proceeding, the delegates shall take the oath provided in this constitution. Vacancies occurring shall be filled in the manner provided for filling vacancies in the legislature if not otherwise provided by law.

Section 7. CONVENTION DUTIES. The convention shall meet after the election of the delegates and prepare such revisions, alterations, or amendments to the constitution as may be deemed necessary. They shall be submitted to the qualified electors for ratification or rejection as a whole or in separate articles or amendments as determined by the convention at an election appointed by the convention for that purpose not less than two months after adjournment. Unless so submitted and approved by a majority of the electors voting thereon, no such revision, alteration, or amendment shall take effect.

Section 8. AMENDMENT BY LEGISLATIVE REFERENDUM. Amendments to this constitution may be proposed by any member of the legislature. If adopted by an affirmative roll call vote of two-thirds of all the members thereof, whether one or more bodies, the proposed amendment shall be submitted to the qualified electors at the next general election. If approved by a majority of the electors voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

Section 9. AMENDMENT BY INITIATIVE. (1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The petitions shall be filed with the secretary of state. If the petitions are found to have been signed by the required number of electors, the secretary of state shall cause the amendment to be published as provided by law twice each month for two months previous to the next regular state-wide election.

(3) At that election, the proposed amendment shall be submitted to the qualified electors for approval or rejection. If approved by a majority voting thereon, it shall become a part of the constitution effective the first day of July following its approval, unless the amendment provides otherwise.

Section 10. PETITIONERS. The number of qualified electors required for the filing of any petition provided for in this Article shall be determined by the number of votes cast for the office of governor in the preceding general election.

Section 11. SUBMISSION. If more than one amendment is submitted at the same election, each shall be so prepared and distinguished that it can be voted upon separately.

ADOPTION SCHEDULE

These Schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted, determining what changes result from the vote on each of the separately submitted issues, and establishing the general effective date of this Constitution. No provision of this Schedule shall be published unless it becomes part of the Constitution as the result of the adoption of a separately submitted provision.

Section 1. This Constitution, if approved by a majority of those voting at the election as provided by the Constitution of 1889, shall take effect on July 1, 1973, except as otherwise provided in sections 1 and 2 of the Transition Schedule. The Constitution of 1889, as amended, shall thereafter be of no effect.

Section 2. (1) If separate issue 2A concerning the unicameral form of the legislature is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then

(a) ARTICLE V, THE LEGISLATURE, shall be deleted and the following substituted therefor:

ARTICLE V
THE LEGISLATURE

Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature of one number whose members are designated senators. The people reserve to themselves the powers of initiative and referendum.

Section 2. SIZE. The number of senators shall be provided by law, but it shall not be smaller than 90 nor larger than 105.

Section 3. ELECTION AND TERMS. A senator shall be elected for a term of four years to begin on a date provided by law. One-half of the senators shall be elected every two years.

Section 4. QUALIFICATIONS. A candidate for the legislature shall be a resident of the area for at least one year preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

Section 5. COMPENSATION. Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

Section 6. SESSIONS. The legislature shall be a continuous body for two-year periods, beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular sessions of not more than 60 legislative days. No legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

Section 7. VACANCIES. A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

Section 8. IMMUNITY. A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

Section 9. DISQUALIFICATION. No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state, except a member of congress, or other person holding an office (except notary public, or the militia) under the United States or this state, shall be a member of the legislature during his continuance in office.

Section 10. ORGANIZATION AND PROCEDURE. (1) The legislature shall judge the election and qualifications of senators. It may by law vest in the courts the power to try and determine contested elections. It shall choose its officers from among its members, keep a journal, and make rules for its proceedings. It may expel or punish a senator for good cause shown with the concurrence of two-thirds of all the senators.

(2) A majority of the senators constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

(6) Impeachment. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office for corrupt conduct in office or for crimes and misdemeanors committed in office.

(2) The legislature shall provide for the manner, procedure and causes for impeachment and shall provide for a tribunal.

(3) Impeachment can be brought only by a two-thirds vote of the legislature. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 11. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are senators and each district shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of the legislature shall each select two commissioners. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time provided, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

Section 15. REFERENDUM OF UNICAMERAL LEGISLATURE. (1) In 1980 the secretary of state shall place upon the ballot at the general election the question, "Shall the unicameral legislature form be continued?"

(2) If a majority of the qualified electors voting on the question answer in the affirmative, the form shall be continued, and this section shall be of no further effect.

(3) If a majority of the qualified electors voting on the question answer in the negative, Article V of this constitution is amended by deleting sections 1, 2, 3, 10, 11, and 14, and inserting in lieu thereof the following:

(a) "Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves those powers of initiative and referendum."

(b) "Section 2. SIZE. The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members."

(c) "Section 3. ELECTION AND TERMS. A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years, each to begin on a date provided by law. One-half of the senators shall be elected every two years."

(d) "Section 10. ORGANIZATION AND PROCEDURE. (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

"(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

"(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

"(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

"(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting."

(e) "Section 11. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from office for corrupt conduct in office are provided by law.

"(2) The legislature shall provide for the manner, procedure and causes for impeachment and may select the senate as tribunal.

"(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

"(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law."

(f) "Section 14. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

"(2) In the legislative session following this amendment and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the

whole, all committee meetings, and all hearings shall be open to the public.

(5) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

Section 12. BILLS. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member on each substantive question in the legislature, or in committee of the whole, shall be recorded and made public. On final passage, the vote shall be taken by yeses and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in an act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Section 12. LOCAL AND SPECIAL LEGISLATION. The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

Section 13. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and shall provide for a tribunal.

(3) Impeachment can be brought only by a two-thirds vote of the legislature. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Section 14. IMPEACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure and causes for impeachment and may select the senate as tribunal.

(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Section 15. DISTRICTING AND APPORTIONMENT. (1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following this amendment and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the

state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time provided, a majority of the supreme court shall select him.

"(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. If within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. If within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved."

(4) The members of the unicameral legislature shall remain in office and their authority to act shall continue until the members of a bicameral body are elected and qualified.

(5) The Senate chamber existing upon the date of adoption of this Article shall remain intact until the election provided for in this section has determined whether the unicameral legislature is to continue.

(6) When the provisions of this section have been carried out, it shall be of no further effect.

(b) The words "of each house" are deleted from subsection (2) of section 6 and from section 8, ARTICLE VIII, REVENUE AND FINANCE

(c) The word "legislature" is substituted for "senate" in subsections (1), (2), and (4) of section 8, ARTICLE VI, THE EXECUTIVE, in subsections (1) and (2) of section 8, ARTICLE VII, THE JUDICIARY, and in subsection (1) of section 2, ARTICLE XII, DEPARTMENTS AND INSTITUTIONS.

(2) If separate issue 2A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then ARTICLE V, THE LEGISLATURE, shall be retained.

Section 3. (1) If separate issue 3A is not approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then section 9 of ARTICLE III, GENERAL GOVERNMENT shall be retained.

(2) If separate issue 3A is approved by the electors and if the proposed Constitution is approved by the electors, then section 9 shall be deleted from ARTICLE III, GENERAL GOVERNMENT and the following substituted therefor: "Section 9. GAMBLING. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum."

Section 4. If separate issue 4B is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then there shall be added to section 28, ARTICLE II, DECLARATION OF RIGHTS, the following sentence: "Death shall not be prescribed as a penalty for any crime against the state." And there shall be deleted from section 21 of the same ARTICLE the following:" except for capital offenses, when the proof is evident or the presumption great."

TRANSITION SCHEDULE

The following provisions shall remain part of this Constitution until their terms have been executed. Once each year the attorney general shall review the following provisions and certify to the secretary of state which, if any, have been executed. Any provisions so certified shall thereafter be removed from this Schedule and no longer published as part of this Constitution.

Section 1. Accelerated Effective Date
Section 2. Delayed Effective Date
Section 3. Prospective Operation of Declaration of Rights
Section 4. Terms of Judiciary
Section 5. Terms of Legislators
Section 6. General Transition

Section 1. ACCELERATED EFFECTIVE DATE. Section 6 (SESSIONS) and section 14 (DISTRICTING AND APPORTIONMENT) of Article V, THE LEGISLATURE, shall be effective January 1, 1973.

Section 2. DELAYED EFFECTIVE DATE. The provisions of sections 1, 2, and 3 of ARTICLE V, LEGISLATURE, shall not become effective until the date the first redistricting and reapportionment plan becomes law.

Section 3. PROSPECTIVE OPERATION OF DECLARATION OF RIGHTS. Any rights, procedural or substantive, created for the first time by Article II shall be prospective and not retroactive.

Section 4. TERMS OF JUDICIARY. Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed.

Section 5. TERMS OF LEGISLATORS. (1) The terms of all legislators elected belore the effective date of this Constitution shall end on December 31 of the year in which the first redistricting and reapportionment plan becomes law.

(2) The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number.

Section 6. GENERAL TRANSITION. (1) The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution.

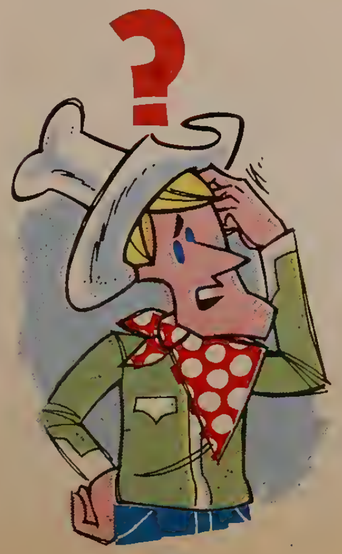
(2) The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place.

(3) All officers filling any office by election or appointment shall continue the duties thereof, until the end of the terms to which they were appointed or elected, and until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto.

Frequently asked Questions

What happens if the voters reject the proposed constitution?
Nothing changes. We proceed under the 1889 Constitution as we are doing now.

Why is the election on the constitution being held so soon after the convention adjourned?
To save money. One alternative to June 6 was the November general election. However, delegates felt that the issue of ratification of the constitution would be overshadowed by the presidential race and the contests for congressional seats and for state offices. The only alternative was a special election sometime between June and November. The convention rejected this alternative because a special election would have cost, perhaps, $300,000—some people estimate as much as $500,000. A large sum of money is saved by combining the special election with the June primaries.



Why do we vote on separate paper ballots?
Because the ratification election is a special election being held at the same time and place as the primaries.

Is the convention passing the buck by putting controversial questions on the ballot as separate items?
Recent experience in other states indicates that the electorate wants to have the opportunity to vote on separate items. Where constitutions have been submitted as single packages, such as in New Mexico, Oregon, Idaho and Arkansas, the voters have rejected them. However, in Pennsylvania, Florida, Hawaii and Illinois where separate proposals were offered, the constitutions were adopted.

Why can't we vote on more separate issues? Why can't we vote on the proposal article by article?
The convention had to strike a medium between a manageable and understandable ballot and a ballot so long it would be confusing. An article by article ballot would have contained at least 14 separate items and would have necessitated a most complicated adoption schedule. There is also a special consideration peculiar to the Montana situation. Article XIX, Section 8 of the 1889 Constitution requires that any item the convention submits to the people can be adopted only by a majority of the electors voting at the election. We know that as they go down the ballot voters fail to vote in increasing numbers on each subsequent item. Consequently, the likelihood of a proposition failing for the lack of a majority of those voting in the election increases with the addition of each item on the ballot.

Will we have wide open gambling if "for gambling" (item 3A on the ballot) is adopted?
Not necessarily. Gambling would be subject to legislative regulation. The legislature could prohibit all forms of gambling or it could allow certain types of gambling. If item 3A fails to receive a majority of those voting in the election, section 9 of Article III, the prohibition on all forms of gambling, will remain in the constitution and the legislature will not be allowed to permit any form of gambling.

What was the purpose of dropping the 2 mill levy limit on property taxation for state purposes?
The property tax now forms a very small portion of revenue for state purposes. It was not the intention of the convention to change that situation. The purpose of removing the 2 mill levy was to open additional options in financing public schools. The issue of inequities in school financing has been raised in other states and it is almost certain to come up in Montana because we have inequities equal to those that exist where equalization of school financing has become an issue. One possibility of equalizing school financing is through state-wide application of mill levies for educational purposes as a replacement for local levies. The removal of the 2 mill limit would not require this kind of solution, but removal would allow it.

Will farm property be assessed at full market value?
The present Constitution requires that all property be assessed for property tax purposes, and Montana's statutes require that all taxable property be assessed at its "full cash value." The proposed constitution does not require that all property be assessed for taxation purposes and it says nothing about market value or cash value. This allows the legislature to determine what property will be taxed and how it will be assessed.

Why was the 1956 antidiversion amendment changed to allow the legislature by a 3/5 vote to use gas taxes for purposes other than highways?
This provision is a compromise between those who wanted to retain the antidiversion amendment in its present form and those who wanted to remove it in its entirety. A majority of delegates recognized that earmarking revenues generally has the unwanted consequence of freeing a state agency from public control through the legislature. The purpose of the compromise was to try to make the highway department more accountable to the legislature.

Will assessing be done at the state level? Why was the State Board of Equalization removed from the constitution?
The State Board of Equalization will continue as a statutory agency. Administrative details generally should be omitted from constitutions. Omission of the State Board of Equalization will free the legislature to alter tax administration as experience dictates. At least for the time being the system of assessments will probably remain much as it is at present. In fact, the present Constitution now requires a considerable degree of centralization of assessments when it dictates that "The state board of equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual tax payers; supervise and review the acts of the county assessors and county boards of equalization; change, increase, or decrease valuations made by county assessors or equalized by county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just and equitable valuation of all taxable property among counties, between the different classes of property, and between individual tax payers."

In what ways will our taxation system be changed?
The constitution does not establish any particular kind of tax structure. The kinds of taxes and the amounts that will be used to finance state government will be determined by the legislature.

Why were debt limits on state and local governments removed?
The proposed constitution does not remove debt restrictions. State indebtedness cannot be incurred without a 2/3 vote of the members of each house of the legislature or a majority of the electors themselves. The constitution requires the legislature to establish debt limits for local units of government. It is true that the proposed constitution drops the specific dollar debt limitations because these dollar limits are no longer realistic, and we have not paid attention to them for many years. We get around the excessively restrictive dollar limits by resorting to revenue bonds. The upshot of this is to increase the cost of incurring indebtedness at all levels of government because revenue bonds carry a higher rate of interest than general obligation bonds.

Why is so much left up to the legislature? What check do we have on the legislature?
Much is left to the legislature because that is the democratic process. There is also no alternative. Attempts to exercise control by putting statutory details in the constitution end up depriving the people of efficient and effective government. Detailed constitutional restrictions work in unintended ways and are surmounted by subterfuges. That is why constitutions should deal with broad grants of power, leaving statutory matters to determination by the legislature. Legislators are the state officials closest to the people. The people's primary check on legislators is the power to elect them. It is up to the people to exercise vigilance in watching what they do, to inform legislators of their own ideas and needs, and to turn them out of office.

Would adoption of the proposed constitution jeopardize any existing water rights?
No. The proposed constitution emphatically confirms all existing water rights. The declaration of state ownership of all water simply reflects the present situation. This declaration was included not to cast any doubt about water rights within the state, but to establish Montana's claim to its own waters against diversion by the Federal Government or downstream states. The purpose of the declaration of state ownership is to claim Montana's water for Montanans.

Will there be only one Justice of the Peace in each county?
No. The proposed constitution requires that there shall be at least one justice of the peace in each county. It will be up to the legislature to adjust the number and distribution of justice courts and small claims courts as the need requires.

Will judges continue to be elected?
Yes. There will be a contested election whenever a qualified candidate files against an incumbent judge. If no one files against an incumbent judge, the incumbent's name will be put on the ballot in such a way as to afford voters the opportunity to indicate whether or not they wish to retain him. If voters reject the judge, the position will be vacant and will be filled in the manner provided for filling vacancies.

What is the significance of the "right to know?" Isn't the right to know contradictory to the "right to privacy?"
They are not contradictory. The right to know is intended to guarantee the citizen opportunity for access to information about the operation of the government. The right of privacy is intended to protect the citizen from Government invasion of his privacy.

Will the university system be unaccountable?
Government and control of the university system is vested in the Board of Regents. The university system will continue to be subject to the audit and accounting procedures the legislature dictates. The legislature will also have control over the university system through its power of appropriation of monies.

Why are there two Boards of Education?
There is a State Board of Education for the purpose of coordinating education at all levels. Half the members of this state board of education will sit as a board of regents for the purpose of governing the university system and the other half will sit as a board of public education to supervise public education. The division of labor will enable each board to concentrate its attention on its field of education.

What are the pros and cons of the bicameral and unicameral legislatures?
Proponents of the unicameral legislature maintain that it is less costly, more visible and accountable to the public, more difficult for lobbyists to control, and more efficient. Proponents of the bicameral legislature insist that a second house is necessary to secure more carefully written laws and as a check against hasty legislation.

How will the boundaries of single member districts be drawn?
The legislature will be assisted in districting and apportioning by a temporary reapportionment commission which will be established after each federal census. The commission will be bipartisan and will cease to function when its work is completed.

Why will we have annual sessions of the legislature?
Because the work load is too heavy to be dealt with in sixty day biennial sessions. The number and complexity of the problems legislators have to deal with justify annual sessions. In 1948 only six states held annual sessions. By 1971 this had increased to 33 states. Annual sessions do not mean that the citizen legislator will be a thing of the past. For the present and for the foreseeable future, Montana will not have professional legislators.

Will the establishment of a new Board of Public Education threaten local control of schools?
No. The proposed Constitution, unlike the 1889 Constitution, contains a guarantee of local control of schools.

What happens in eminent domain proceedings if a citizen rejects the state's offer?
If the citizen wins his case against the state, the state will have to pay, not only the increased award, but also any additional costs such as attorney's fees.

Why was the office of State Treasurer eliminated from the proposed constitution?
The treasurer will continue as a statutory office. The removal of the treasurer from the constitution was the convention's effort at shortening the ballot. Many citizens want to know why more officers were not removed. The treasurer handles very little cash, and accounting for receipt and disbursement of state funds is carried on in the Department of Administration.

Can there be city-county consolidation?
Yes. But not without a vote of the people concerned. Local units of government will not be required to consolidate. There are a large numbec of options under the proposed constitution for drawing up local governments to suit local needs and to share officers and facilities both within and among counties.

Why is voter review of local governments made mandatory?
To have the people periodically evaluate the efficiency of their local units of government and to educate them to the options available to them.

What does the proposed constitution say about environment?
One section of the Declaration of Rights states that among the inalienable rights is a right to a clean and healthful environment. The Environment and Natural Resources Article also stipulates that the state shall maintain a clean and healthful environment and requires that all lands disturbed by the taking of natural resources must be reclaimed.

Why is welfare being shifted to the state level?
The categorical assistance programs are now financed and administered by the federal and state governments. Counties take care of general assistance welfare. The proposed constitution amends the provision on welfare because federal courts have stricken residence requirements under the general assistance program. Removal of the residence requirements concentrates welfare problems in the more urbanized counties. Welfare recipients tend to congregate in urban areas because they seek job opportunities and better facilities for their care. This situation will continue whether the constitution is adopted or not.

Can 18 year olds hold any public office?
No, not all. Candidates for governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor must be 25 years of age. Candidates for supreme court and district court judgeships have to have been admitted to the practice of law in Montana for five years prior to the election. This imposes a practical age limit. Eighteen year olds can run for other offices.

Does the proposed Constitution remove the prohibition against state aid to sectarian schools?
No. The proposed Constitution retains the prohibition against state aid to sectarian schools, but it does allow the state to act as an agent for the distribution of federal funds to parochial schools. This clarifies existing practice. Also, there is increasing likelihood of further federal aid to parochial schools. The upshot of prohibiting the state from being the financial agent for the distribution of federal funds could be to deprive parochial school children of opportunity for equal education.

Does the Constitution remove the system of local tax appeal so that we have to go directly to Helena on tax appeals?
No. The proposed Constitution requires the legislature to establish a tax appeals system at the local level. Under the new system aggrieved taxpayers will not have to appeal to the same agency that approved or made the assessment in the first place.

Would adoption of the Constitution threaten or impair any existing legal right?
No. This matter is dealt with in section 6 of the transition schedule. Among other things, this section says "The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place."

What is meant by the removal of the state's sovereign immunity and will its removal make public employees liable to suits?
Sovereign immunity is a doctrine which the state has used to protect itself and its local units from suit by private individuals. Since 1959; Montana has allowed itself and its local units to be sued in certain instances and up to certain amounts. The removal of sovereign immunity will mean that the state and its local units will be subject to suit under any circumstances in which a private individual would be subject to suit. Removal of sovereign immunity will actually grant public employees additional protection. Although sovereign immunity exists public employees are not now immune to suit for actions they commit as agents of the state. With the removal of sovereign immunity it is not very likely a citizen would sue a public employee when he can sue the state.

What are the procedures for amending the proposed constitution?
It will be easiec to amend the proposed constitution than it is to amend the present constitution because the limit of 3 amendments every biennium is removed. The legislature will be able to propose constitutional amendments by 2/3 vote of all legislators rather than a 2/3 vote of each house as at present. Also, the people will have the right to initiate constitutional amendments—a right they do not have under the present constitution.

What are the differences in representation between the unicameral and bicameral legislatures?
Under the unicameral legislature the citizen will vote for a single senator who will serve a four year term. Under the bicameral legislature the citizen will vote for a representative and a senator. Senatorial districts will be made up of 2 contiguous representative districts. Representatives will serve a two year term and senators a four year term. Under both alternatives the terms of senators will be staggered so that half are elected every 2 years.

What will the Lieutenant Governor do as a full time official if he doesn't preside over the senate?
What the Lieutenant Governor does will be up to the Governor and the legislature. The legislature is authorized to prescribe duties for the lieutenant governor, and the governor is authorized to assign non-constitutional executive functions to the lieutenant governor.

What happens to the terms of elected officials who are elected this fall?
The constitution will go into effect July 1, 1973. Elected officials, except for legislators, will fill out the terms for which they were elected this fall. Annual sessions of the legislature will begin in January, 1973. The next legislature will set up the reapportionment commission. If a reapportionment plan is adopted the terms of legislators elected this fall will end December 31, 1973. Legislators under the new constitution will be elected in the fall of 1973 and take office in 1974.

Isn't there a danger that legislatures will call special sessions since there is no time limit on them?
Since legislators will continue to be citizen legislators there is little reason to think that they will call special sessions for frivolous reasons. They will be all the more unlikely to call special sessions if they are paid annual salaries since there could be nothing to gain by staying in Helena. If legislators call special sessions without good reason, it will be up to the voter to turn them out of office.

What is the office of Commissioner of Higher Education?
What this office amounts to will depend entirely on the Board of Regents since the Regents will appoint the officer and establish his term and duties.

Why was the bicameral legislature rather than the unicameral legislature put in the body of the proposed constitution?
The bicameral legislature was put in the body of the constitution because the convention thought that citizens would be more likely to vote for the constitution if it contained a bicameral rather than a unicameral legislature. The legislature will be unicameral only if a majority of those voting in the election vote for item 2A on the ballot.

"... no organic law can ever be framed with a provision specifically applicable to every question which may occur in practical administration. No foresight can anticipate, nor any document of reasonable length contain express provisions for all possible questions."

Abraham Lincoln—First Inaugural Address, 4 March 1861

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EXPLANATION *of the* BALLOT

OFFICIAL BALLOT

Instructions to voters: Place an "X" in the box which expresses your preferences. The full text of the proposed Constitution and the separate propositions is available for inspection at your polling place. If the proposed constitution fails to receive a majority of the votes cast, alternate issue 1 shall be void.

SAMPLE

PLEASE VOTE ON ALL FOUR ISSUES

1.
(Vote for One)

☐ **FOR** the proposed Constitution.

☐ **AGAINST** the proposed Constitution.

THE PROPOSED CONSTITUTION WILL INCLUDE A BICAMERAL (2 Houses) LEGISLATURE UNLESS A MAJORITY OF THOSE VOTING IN THIS ELECTION VOTE FOR A UNICAMERAL (1 House) LEGISLATURE IN ISSUE 2.

2.
(Vote for One)

☐ 2A. **FOR** a unicameral (1 house) legislature.

☐ 2B. **FOR** a bicameral (2 houses) legislature.

3.
(Vote for One)

☐ 3A. **FOR** allowing the people or the legislature to authorize gambling.

☐ 3B. **AGAINST** allowing the people or the legislature to authorize gambling.

4.
(Vote for One)

☐ 4A. **FOR** the death penalty.

☐ 4B. **AGAINST** the death penalty.

THE BALLOT

Montana's citizens will vote on the Constitutional Convention's proposals on June 6. Because of wording in both the 1889 Constitution and the Convention Enabling Act, this will be a special election held at the same time as the primary elections. Voters will need to sign special registration books, and they will use a separate paper ballot which will look pretty much like the one Con Con Monty is holding on this page.

It is essential that the voter understand several important points about this ballot. If you vote for the proposed Constitution, you will be voting for a constitution with a bicameral (2 houses) legislature. However, if a majority of those voting in the election vote for a unicameral house in item No. 2 on the ballot, the unicameral article will automatically be substituted for the bicameral article in the new Constitution.

If the proposed Constitution fails, your vote on the other measures — the make-up of the legislature, gambling, and the death penalty — will not count because they automatically fail if the proposed Constitution is rejected. Second, your vote on these three questions will not count unless each is decided by a majority of those voting in the election. If you fail to vote on any item, you will aid in its defeat.

If the proposed Constitution carries and the issue of gambling is not decided because neither those for nor those opposed get a majority of those voting in the election, then the same restrictions against gambling in Section 9, Article III of the proposed Constitution will be retained. Similarly, if the issue of capital punishment is not decided because neither those for nor those against get a majority of those voting in the election, then the situation will be as it is now: the new Constitution would leave the future of the death penalty in the hands of the legislature where it presently lies.